

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

In the Matter of)
ComSouth Telesys, Inc.) CSR-7223-Z
Request for Waiver of Section 76.1204(a)(1) of)
the Commission's Rules)
Implementation of Section 304 of the) CS Docket No. 97-80
Telecommunications Act of 1996)
Commercial Availability of)
Navigation Devices)

MEMORANDUM OPINION AND ORDER

Adopted: July 23, 2007

Released: July 23, 2007

By the Chief, Media Bureau:

I. INTRODUCTION

1. Comsouth Telesys, Inc. ("Comsouth") has filed with the Chief of the Media Bureau a request for waiver (the "Waiver Request") of the ban on integrated set-top boxes set forth in Section 76.1204(a)(1) of the Commission's rules to allow it to continue to place into service integrated digital cable set-top boxes after July 1, 2007. For the reasons stated below, we deny the Waiver Request, but grant Comsouth leave to amend its request.

II. BACKGROUND

A. Section 629 of the Act

2. Section 629(a) of the Communications Act of 1934, as amended (the "Act"), requires the Commission to:

adopt regulations to assure the commercial availability, to consumers of multichannel video programming and other services offered over multichannel video programming systems, of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor.

1 47 C.F.R. § 76.1204(a)(1). The separation of the security element from the host device required by this rule is referred to as the "integration ban."

2 47 U.S.C. § 549(a).

Through Section 629, Congress intended to ensure that consumers have the opportunity to purchase navigation devices from sources other than their multichannel video programming distributor (“MVPD”).³ Congress characterized the transition to competition in navigation devices as an important goal, stating that “[c]ompetition in the manufacturing and distribution of consumer devices has always led to innovation, lower prices and higher quality.”⁴ At the same time, Congress recognized that MVPDs have “a valid interest, which the Commission should continue to protect, in system or signal security and in preventing theft of service.”⁵ Similarly, Congress also sought to avoid Commission actions “which could have the effect of freezing or chilling the development of new technologies and services.”⁶ Under Section 629(c), therefore, the Commission may grant a waiver of its regulations implementing Section 629(a) when doing so is necessary to assist the development or introduction of new or improved services.⁷

3. To carry out the directives of Section 629, the Commission in 1998 required MVPDs to make available by July 1, 2000 a security element separate from the basic navigation device (the “host device”).⁸ The integration ban was designed to enable unaffiliated manufacturers, retailers, and other vendors to commercially market host devices while allowing MVPDs to retain control over their system security. MVPDs were permitted to continue providing equipment with integrated security until January 1, 2005, so long as modular security components, known as point-of-deployment modules (“PODs”),⁹ were also made available for use with host devices obtained through retail outlets. In April 2003, in response to a request from cable operators, the Commission extended the effective date of the integration ban until July 1, 2006.¹⁰ Then, in 2005, again at the urging of cable operators,¹¹ the Commission further extended that date until July 1, 2007.¹² In that decision, the Commission stated that it would “entertain certain requests for waiver of the prohibition on integrated devices for limited capability integrated digital cable boxes.”¹³

4. The Media Bureau acted upon three requests for waiver of Section 76.1204(a)(1) of the Commission’s rules on January 10, 2007,¹⁴ and three on May 4, 2007.¹⁵ The Bureau found that waiver

³ See S. REP. 104-230, at 181 (1996) (Conf. Rep.). See also *Bellsouth Interactive Media Services, LLC*, 19 FCC Rcd 15607, 15608, ¶ 2 (2004).

⁴ H.R. REP. NO. 104-204, at 112 (1995).

⁵ *Id.*

⁶ S. REP. 104-230, at 181 (1996) (Conf. Rep.).

⁷ 47 U.S.C. § 549(c).

⁸ *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, 13 FCC Rcd 14775, 14808, ¶ 80 (1998) (“*First Report and Order*”); 47 C.F.R. § 76.1204(a)(1).

⁹ For marketing purposes, PODs are referred to as “CableCARDS.”

¹⁰ *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, 18 FCC Rcd 7924, 7926, ¶ 4 (2003).

¹¹ *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, 20 FCC Rcd 6794, 6802-03, ¶ 13 (2005) (“*2005 Deferral Order*”), *pet. for review denied*, *Charter Communications, Inc. v. FCC*, 460 F.3d 31 (D.C. Cir. 2006).

¹² *Id.* at 6814, ¶ 31.

¹³ *Id.*

¹⁴ See *Bend Cable Communications, LLC d/b/a BendBroadband Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, 22 FCC Rcd 209 (2007) (“*BendBroadband Order*”); *Cablevision Systems Corporation’s Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, 22 FCC Rcd 220 (2007) (“*Cablevision*

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was not warranted for any of the parties pursuant to Section 629(c) because none of the parties had demonstrated that waiver was necessary to assist in the development or introduction of a new or improved service.¹⁶ The Bureau also found that devices with two-way functionality did not meet the waiver policy announced in the *2005 Deferral Order* for low-cost, limited-capability set-top boxes.¹⁷ The Bureau found good cause, however, to conditionally grant Bend Cable Communications d/b/a BendBroadband (“BendBroadband”) a waiver of Section 76.1204(a)(1) of the Commission’s rules.¹⁸

5. In the *BendBroadband Order*, we recognized “the difficulties that small cable operators may face in complying with the July 1, 2007 deadline, particularly since manufacturers may prioritize orders from the largest cable operators.”¹⁹ We stated that small operators could request deferral of the July 1, 2007 deadline if they could demonstrate that they have placed orders for compliant set-top boxes²⁰ that will not be fulfilled in time for them to comply with the deadline.²¹ In the *GCI Order*, we explained further that a small cable operator requesting such a deferral must submit a signed affidavit that: (1) states that it has placed an order for a sufficient number of compliant boxes that, if filled, would satisfy the operator’s equipment needs, specifies the number of boxes ordered, and provides information to support its statement that the number of compliant boxes ordered would be sufficient, if the order could be filled; (2) states that the manufacturer has informed it that the order will not be filled by July 1, 2007; (3) sets forth when the order will be filled; (4) requests deferral of the integration ban until that time; (5) states that it intends to order only enough integrated boxes to meet its needs until compliant boxes can be obtained, indicates how many such boxes it will be ordering and provides information to support those numbers; and (6) attaches all relevant documentation, including order forms and correspondence with its manufacturers.²²

6. On June 29, 2007, in six separate orders the Media Bureau acted upon 143 requests for waiver of Section 76.1204(a)(1) of the Commission’s rules. First, the Bureau granted 129 waiver requests based on each applicant’s current operation, or commitment to operate before February 17, 2009, of an all-digital video distribution network comparable to the all-digital network to which

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Order”); *Comcast Corporation Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, 22 FCC Rcd 228 (2007) (“*Comcast Order*”).

¹⁵ See *Charter Communications, Inc. Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, DA 07-2008 (MB rel. May 4, 2007) (“*Charter Order*”); *Millennium Telcom, LLC d/b/a OneSource Communications Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, DA 07-2009 (MB rel. May 4, 2007) (“*OneSource Order*”); *GCI Cable, Inc. Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, DA 07-2010 (MB rel. May 4, 2007) (“*GCI Order*”).

¹⁶ *BendBroadband Order*, 22 FCC Rcd at 213-214, ¶¶ 11-15; *Cablevision Order*, 22 FCC Rcd at 224-225, ¶¶ 12-16; *Comcast Order*, 22 FCC Rcd at 235-238, ¶¶ 15-23; *Charter Order* at ¶¶ 13-16; *OneSource Order* at ¶ 13.

¹⁷ *BendBroadband Order*, 22 FCC Rcd at 214-215, ¶¶ 16-20; *Comcast Order*, 22 FCC Rcd at 238-241, ¶¶ 24-30; *Charter Order* at ¶ 17; *OneSource Order* at ¶¶ 12-17.

¹⁸ In the *OneSource Order* and the *GCI Order*, the Bureau granted waiver on similar grounds. See *OneSource Order* at ¶¶ 16-18; *GCI Order* at ¶¶ 14-18.

¹⁹ *BendBroadband Order*, 22 FCC Rcd 209, 212, ¶ 10.

²⁰ This includes both low-cost and high-end compliant boxes.

²¹ *BendBroadband Order*, 22 FCC Rcd 209, 212-213, ¶ 10.

²² *GCI Order* at ¶ 18. We explained that we will treat this documentation as confidential upon the operator’s request, consistent with our rules and policies regarding confidential information. *Id.* See generally 47 C.F.R. § 0.459; *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, 13 FCC Rcd 24816 (1998).

BendBroadband, GCI, and Millennium committed to migrate.²³ Second, consistent with policies established in the *GCI Order*, the Bureau granted the request of the City of Crosslake, MN d/b/a Crosslake Communications to defer the July 1, 2007 deadline based on its affidavit demonstrating that it placed orders for compliant set-top boxes that will not be filled by the July 1st deadline.²⁴ Third, the Bureau granted Guam Cablevision, LLC a limited waiver of the integration ban based on the unique circumstances stemming from typhoon-related damage to Guam Cablevision's system and the system's separation from the fifty states.²⁵ Fourth, the Bureau denied the request of the National Cable & Telecommunications Association seeking a general waiver of the integration ban until cable operators' deployment of downloadable security or December 31, 2009, whichever is earlier.²⁶ Fifth, the Bureau declined Massillon's waiver request to allow it to continue to deploy its inventory of non-compliant set-top boxes after the July 1, 2007 deadline, finding that Massillon's decision to purchase thousands of integrated set-top boxes rather than compliant, non-integrated set-top boxes for delivery in the months leading up to the July 1, 2007 deadline did not justify a waiver of the rule.²⁷ Finally, the Bureau denied ten waiver requests for set-top boxes that it concluded were not the "low-cost, limited-capability" set-top boxes that the Commission committed to exempt from the integration ban in the *2005 Deferral Order*.²⁸

B. The Waiver Request

7. On May 18, 2007, Comsouth filed a request for waiver of the integration ban "for a period of two years."²⁹ Comsouth uses two bases to justify its request: (1) that its set-top box provider will not deliver compliant boxes before the July 1, 2007 deadline, and (2) that waiver is necessary to allow Comsouth to compete effectively with direct broadcast satellite ("DBS"). First, Comsouth claims that its set-top box provider has not specified a firm delivery date for the 101 compliant set-top boxes that Comsouth ordered on March 4, 2007, and only indicated that the boxes will not be delivered before early September.³⁰ Comsouth does not assert, however, that delivery of compliant boxes will take two years. Second, ComSouth states that in order to provide video services that compete with DBS in its markets and introduce new service offerings, it needs to "be allowed to deploy set-top boxes in the most economical manner."³¹ Comsouth argues that the increased cost of compliant set-top boxes would force the company to raise its price for digital cable service, which would not allow it to compete with DBS effectively.³²

²³ See *Consolidated Requests for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, DA 07-2921 (MB rel. June 29, 2007).

²⁴ See *The City of Crosslake, Minnesota d/b/a Crosslake Communications Petition for Deferral of Enforcement of July 1, 2007 Deadline in 47 C.F.R. § 76.1204(a)(1)*, DA 07-2918 (MB rel. June 29, 2007).

²⁵ See *Guam Cablevision, LLC Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, DA 07-2917 (MB rel. June 29, 2007) ("*Guam Order*").

²⁶ See *National Cable & Telecommunications Association Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, DA 07-2920 (MB rel. June 29, 2007).

²⁷ See *Massillon Cable TV, Inc. Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, DA 07-2919 (MB rel. June 29, 2007).

²⁸ See *Armstrong Utilities et al Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, DA 07-2916 (MB rel. June 29, 2007) ("*Armstrong Order*").

²⁹ Waiver Request at 1

³⁰ *Id.* at 4-5.

³¹ *Id.* at 2.

³² *Id.* at 7.

C. Comments

8. Two parties filed comments in response to the Waiver Request. Motorola Inc. (“Motorola”) fully supports grant of the waiver, claiming that the added cost associated with compliance provides sufficient justification for grant.³³ The Consumer Electronics Association (“CEA”) states that the Bureau should not grant waiver requests that fall outside of the narrowly defined criteria that have been established to show good cause for waiver,³⁴ and asserts that Comsouth has not met any of those criteria.

III. DISCUSSION

9. Comsouth makes its request pursuant to the general waiver provision of Section 76.7 of the Commission’s rules, Section 76.1207 of the Commission’s rules, and Section 629(c) of the Telecommunications Act of 1996.³⁵ As discussed below, and consistent with the reasons previously set forth in the *January 10 Orders* and the *Armstrong Order*, we find that the Waiver Request does not justify the grant of waiver under any of these standards. We therefore deny Comsouth’s request.

A. Section 629(c) of the Act

10. Section 629(c) states in relevant part that:

[t]he Commission shall waive a regulation adopted under subsection (a) of this section for a limited time upon an appropriate showing . . . that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products.³⁶

As mentioned above, the principal goal of Section 629 of the Act is to foster competition and consumer choice in the market for navigation devices.

11. Comsouth argues that grant of the Waiver Request is necessary to assist in the development of its new and improved digital cable service.³⁷ As a general matter, we do not find compelling Comsouth’s argument that grant of the Waiver Request is necessary to assist the development or introduction of these services. First, as Comsouth notes, it has already launched digital services in their markets³⁸ and so it cannot be said that a waiver is necessary to assist in the “introduction” of these services, as they already exist. Second, while it could be argued that waivers under Section 629(c) would assist the development or introduction of virtually any service offered by an MVPD, we do not believe that Congress intended for us to interpret this narrowly tailored exception in such a lenient manner. Based on the facts presented, Comsouth has failed to show that waiver is “necessary” here to assist in the

³³ Motorola Comments at 5.

³⁴ See CEA Comments, CSR-7228-Z, at 1-2. Although CEA does not elaborate on what constitute these narrowly defined criteria, we presume that CEA considers the narrowly defined criteria to include an operator’s commitment to transition to an all-digital system before February 17, 2009, a specific, non-speculative showing of financial hardship, severe weather-related damage to a cable system, or an operator’s longstanding use of a non-CableCARD separated security solution. See generally *BendBroadband Order*, *Charter Order*, *Guam Order*, *Cablevision Order*.

³⁵ Waiver Request at 1. Section 76.1207 of the Commission’s rules, 47 C.F.R. § 76.1207, implements Section 629(c) of the Act and tracks the language of that statutory provision almost verbatim.

³⁶ 47 U.S.C. § 549(c).

³⁷ Waiver Request at 6-7.

³⁸ *Id.* at 2.

“development or introduction” of new or improved services.³⁹ Indeed, as we stated in the *January 10 Orders*, such an interpretation would effectively negate any rules adopted pursuant to Section 629(a).⁴⁰

B. Sections 1.3 and 76.7 of the Commission’s Rules

12. Comsouth also submitted the Waiver Request under the general waiver provision found in Sections 1.3⁴¹ and 76.7⁴² of the Commission’s rules.⁴³ As stated above, Comsouth argues that waiver is justified because its vendor will not deliver compliant boxes before September 2007 and because Comsouth will not be able to compete with DBS providers. For the same reasons set forth in subsection A. above, we conclude that Comsouth is not eligible for waiver of the integration ban under these provisions.

13. Despite Comsouth’s assertion that grant of the Waiver Request is necessary to allow it to compete effectively with DBS because of the increased set-top box costs the company will face,⁴⁴ we do not believe that a waiver is justified on this basis because this assertion is too speculative. Moreover, we conclude that, to the extent that there are any public interest benefits that might result from a waiver, they would not outweigh the significant harm that would result from undermining the integration ban and impeding the development of a competitive market for navigation devices.⁴⁵

14. As noted above, the paramount goal of the integration ban is a competitive navigation device market.⁴⁶ Likewise, the Commission has held that common reliance on a separated security function was the best means to meet that goal.⁴⁷ Grant of the Waiver Request would create an exception

³⁹ See *BendBroadband Order*, 22 FCC Rcd at 213, ¶ 13; *Cablevision Order*, 22 FCC Rcd at 225, ¶ 14; *Comcast Order*, 22 FCC Rcd at 237, ¶ 19.

⁴⁰ See *BendBroadband Order*, 22 FCC Rcd at 214, ¶ 14; *Cablevision Order*, 22 FCC Rcd at 225, ¶ 15; *Comcast Order*, 22 FCC Rcd at 236, ¶ 17.

⁴¹ 47 C.F.R. § 1.3.

⁴² See 47 C.F.R. § 76.7 (“On petition by any interested party . . . the Commission may waive any provision of this part 76. . .”).

⁴³ We will also consider Petitioners’ Waiver Requests under the general authority of Section 1.3 of the Commission’s rules. See 47 C.F.R. § 1.3 (“Any provision of the rules may be waived by the Commission on its own motion . . . if good cause therefore is shown.”)

⁴⁴ Waiver Request at 7.

⁴⁵ The benefits of the integration ban include the consumer savings and technological advances that will result from a competitive market for navigation devices as well as “the fact that Congress regarded the commercial availability of navigation devices from independent sources as a benefit in and of itself.” *Charter Communications, Inc. v. FCC*, No. 460 F.3d 31, 42 (D.C. Cir. 2006) (quoting *2005 Deferral Order*, 20 FCC Rcd at 6809, ¶ 29).

⁴⁶ See *Comcast Order*, 22 FCC Rcd at 241, ¶ 31, n.109.

⁴⁷ See *Comcast Order*, 22 FCC Rcd at 241, ¶ 31. In the *2005 Deferral Order*, the Commission explained the justification for common reliance:

We believe that common reliance by MVPDs and consumer electronic manufacturers on an identical security function will align MVPDs’ incentives with those of other industry participants so that MVPDs will plan the development of their services and technical standards to incorporate devices that can be independently manufactured, sold, and improved upon. Moreover, if MVPDs must take steps to support their own compliant equipment, it seems far more likely that they will continue to support and take into account the need to support services that will work with independently supplied and purchased equipment. We believe that cable operator reliance on the same security technology and conditional access interface that consumer electronics manufacturers

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to the integration ban rule that would undermine the goals of common reliance, *e.g.*, developing a commercial market for navigation devices. While we recognize Comsouth's concern that the imposition of the integration ban may lead to higher cable bills in the short term,⁴⁸ we believe that "the costs that this requirement will impose should be counterbalanced to a significant extent by the benefits likely to flow from a more competitive and open supply market."⁴⁹ Therefore, we conclude that the possible public interest benefits suggested by Comsouth in support of the Waiver Request do not outweigh the substantial public interest benefits associated with the integration ban and the possible harm that could result from granting the Waiver Request.

15. Finally, Comsouth provides no explanation for why the company should be afforded a two-year waiver of the integration ban given that its vendor is "more than 120 days out from shipment" of compliant devices.⁵⁰ In the *GCI Order*, which was released before Comsouth filed its Waiver Request, the Bureau denied GCI's request for deferral of enforcement of the integration ban because GCI "failed to substantiate its efforts to comply with the July 1, 2007, deadline with supporting documentation."⁵¹ Similarly, Comsouth did not provide any documentation to support its claim that it has made substantial efforts to comply with the integration ban.⁵² Without such documentation, we cannot provide Comsouth with relief that would specifically address its needs. We are cognizant of the difficulties that Comsouth may face in complying with the July 1, 2007 deadline in Section 76.1204(a)(1) of the Commission's rules, however, particularly given that the deadline has already passed. In the *Armstrong Order*, we denied ten separate waiver requests but deferred enforcement of the rule for these operators for two reasons.⁵³ First, the operators filed their waiver requests prior to the July 1st deadline, but their waiver requests were not acted on until June 29th.⁵⁴ The unresolved status of these waiver requests may have created uncertainty for these operators as to whether and when they should place orders for compliant devices. Second, we noted that the operators that were seeking waivers were small cable operators with limited subscriber bases.⁵⁵ In other cases involving requests for waiver of Section 76.1204(a)(1), we noted "the difficulties that small cable operators may face in complying with the July 1, 2007 deadline, particularly since manufacturers may prioritize orders from the largest cable operators."⁵⁶ Thus, even if

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must rely on is necessary to facilitate innovation in competitive navigation device products and should not substantially impair innovation in cable operator-supplied products . . . [T]he concept of common reliance is intended to assure that cable operator development and deployment of new products and services does not interfere with the functioning of consumer electronics equipment or the introduction of such equipment into the commercial market for navigation devices.

2005 Deferral Order, 20 FCC Rcd at 6809-6810, ¶ 30. *See also Charter Communications, Inc. v. FCC*, 460 F.3d 31, 40-41 (D.C. Cir. 2006).

⁴⁸ *See* Waiver Request at 7.

⁴⁹ *2005 Deferral Order*, 20 FCC Rcd at 6809, ¶ 29.

⁵⁰ Waiver Request at 5.

⁵¹ *GCI Order* at ¶ 18.

⁵² In the Waiver Request, Comsouth indicates that it waited until March of this year to order a mere 101 compliant devices, which indicates that the company did not make substantial efforts to be in compliance with the integration ban. Waiver Request at 4.

⁵³ *Armstrong Order* at ¶ 58

⁵⁴ *Id.*

⁵⁵ All but one of the operators that sought a waiver that was addressed in the *Armstrong Order* had fewer than one million subscribers. *See id.*

⁵⁶ *BendBroadband Order*, 22 FCC Rcd 209, 212, ¶ 10.

these operators had placed orders for compliant set-top boxes prior to the July 1st deadline despite the unresolved status of their waiver applications, it is unlikely that these orders would have been filled prior to the July 1st deadline.⁵⁷ Similar to the waiver applicants in the *Armstrong Order*, Comsouth filed its waiver request prior to the July 1st deadline, but it was not acted on until after the deadline. Moreover, Comsouth is a small cable operator, as demonstrated by its subscriber base of approximately 10,300 subscribers, and thus its orders for navigation boxes are not likely to be given priority by manufacturers.⁵⁸ Therefore, consistent with the deferral afforded the waiver applicants in the *Armstrong Order*, we will defer enforcement of the rule with respect to Comsouth until September 1, 2007. We encourage Comsouth to use this time to take all steps possible to come into compliance with the separated security requirement. Starting from the date of this order, Comsouth must place orders only for compliant devices.⁵⁹ If Comsouth is able to document that it ordered an adequate number of compliant boxes and its vendor will be unable to fill its order for compliant devices by September 1, 2007, it may file for a limited extension of that date,⁶⁰ but as we stated in the *Armstrong Order*, “we do not expect to routinely grant such requests.”⁶¹

IV. CONCLUSION

16. For the reasons stated herein, we conclude that the Waiver Request, as submitted, does not justify waiver under either Section 629(c) or Sections 1.3 or 76.7 of the Commission’s rules. Accordingly, we deny the Waiver Request. However, we grant Comsouth leave to file an amended waiver request that seeks waiver for low-cost, limited capability set-top boxes, or seeks waiver based on a commitment to go all-digital by a date-certain such as February 17, 2009 or sooner, when broadcasters will cease their analog operations.

V. ORDERING CLAUSES

17. Accordingly, **IT IS ORDERED** that, pursuant to Section 629(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 549(c), and Sections 1.3, 76.7, and 76.1207 of the Commission’s

⁵⁷ See, e.g., GCI Cable, Inc., Request for Waiver, CSR-7130-Z, CS Docket No. 97-80 (February 16, 2007), at 16 (“A cable operator of GCI’s size has no ability to affect manufacturing priorities or schedules. Based on experience, GCI typically waits an average of up to six months longer than large companies for its orders to be filled for existing product lines. The delay for a new product like CableCARD-enabled set-top boxes is unknown. . . . [M]anufacturers typically fulfill large company orders on a first priority basis.”).

⁵⁸ Waiver Request at 2.

⁵⁹ Comsouth may deploy devices with integrated security during this limited period.

⁶⁰ While Comsouth indicated that it has received such notification from its vendor, it provided no specific information or supporting documentation to justify relief. Furthermore, given that Comsouth has over 10,000 subscribers, we are not convinced that 101 compliant devices will satisfy Comsouth’s equipment needs. Therefore, if Comsouth does file for a limited extension, we would expect the request to include specific information as to the reason for the extension, and that the request would, at the very least: (1) state that Comsouth has placed an order for a sufficient number of compliant boxes that, if filled, would satisfy its equipment needs, specifies the number of boxes ordered, and provides information to support its statement that the number of compliant boxes ordered would be sufficient, if the order could be filled; (2) states that the manufacturer has informed Comsouth that the order will not be filled by September 1, 2007; (3) sets forth when the order will be filled; (4) requests deferral of the integration ban until that time; (5) states that Comsouth intends to order only enough integrated boxes to meet its needs until compliant boxes can be obtained, indicates how many such boxes it will be ordering and provides information to support those numbers; and (6) attaches all relevant documentation, including order forms and correspondence with its manufacturers.

⁶¹ *Armstrong Order* at ¶ 58.

rules, 47 C.F.R. §§ 1.3, 76.7, and 76.1207, the request for waiver filed by Comsouth Telesys, Inc. of Section 76.1204(a)(1) of the Commission's rules, 47 C.F.R. § 76.1204(a)(1) **IS DENIED**.

18. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules, 47 C.F.R. § 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Monica Shah Desai
Chief, Media Bureau