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October 30, 2006

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, D.C. 20554

**Re: Charter Communications, Inc. Request for Waiver, CSR-7049-Z  
Comcast Corporation Request for Waiver, CSR-7012-Z  
CS Docket No. 97-80**

Dear Ms. Dortch:

I am writing on behalf of the National Cable & Telecommunications Association (“NCTA”) to address comments by certain consumer electronics (“CE”) and information technology (“IT”) companies that have been filed in the above-referenced proceedings.<sup>1</sup> The substance of these comments strays far afield from the merits at issue in those proceedings. Specifically, while those proceedings address petitions for waiver of the “integration ban” filed by Comcast Corporation and Charter Communications with respect to low-cost, *limited-capability* set-top boxes, the CE and IT comments veer off into unrelated arguments regarding *advanced* two-way “cable ready” retail devices and associated CableLabs licenses. The purpose of this letter is to correct the erroneous statements made in these comments. In doing so, we reiterate that these issues are entirely unrelated to the pending waiver requests and should in no way distract the Commission from considering the underlying merits of these (or other pending) requests.

As noted above, CEA, TiVo, Sony, and a group of IT companies each have used the waiver request proceedings as an opportunity to raise questions about the development of advanced two-way devices, including cable ready set-top boxes, digital television sets, and other

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<sup>1</sup> See Comments of the Consumer Electronics Association (“CEA Charter Comments”), Comments of Hewlett-Packard Company, Intel Corporation and Sony Electronics, Inc., and Dell Inc. (“IT Charter Comments”), Comments of Sony Electronics (“Sony Charter Comments”), and Opposition of TiVo, Inc. (“TiVo Opposition”), all filed on September 18, 2006 in CS Docket No. 97-80 and CSR-7049-Z. See also Comments of the Consumer Electronics Association (“CEA Comcast Comments”), Comments of Hewlett-Packard Company, Intel Corporation and Sony Electronics (“IT Comcast Comments”), and Comments of Sony Electronics Inc. (“Sony Comcast Comments”), all filed on June 15, 2006, in CS Docket No. 97-80 and CSR-7012-Z.

devices that could receive cable programming without a cable-supplied set-top box. Specifically, they make three arguments: (1) CableLabs licenses such as the CableCARD-Host Interface License Agreement (“CHILA”) and the OpenCable Applications Platform (“OCAP”) license do not permit CE manufacturers to build competitive products, (2) the OCAP specification does not accommodate multi-function retail devices; and (3) two-way retail devices should not be required to use OCAP if cable operator leased boxes do not use OCAP.

Contrary to these claims, the CableLabs licenses and specifications for digital cable ready devices accommodate competitive devices, and are compatible with open platform multi-function devices. OCAP has been recognized by major CE companies, as well as the cable industry and the Commission, as the quickest path to the commercial availability of two-way cable ready products that are capable of accessing interactive cable services across different cable systems nationwide. Since cable operator leased boxes do not need to be portable nationwide, OCAP is unnecessary in these devices.

### **I. CableLabs Licenses Promote Competitive Products.**

In its comments, CEA claims that CableLabs specifications and licenses do not allow CEA members to build competitive products.<sup>2</sup> From this misguided premise, CEA reaches a similarly misguided conclusion that any waiver request permitting cable operators to deploy integrated set-top boxes should be denied.<sup>3</sup> Putting aside the fact that there is no relationship between the CEA premise and its conclusion, the record demonstrates that CEA’s premise is incorrect. In fact, CableLabs specifications and licenses are available and have been used for the development of both one-way and two-way cable-ready devices.

With respect to *one-way* devices, CableLabs makes available licenses that have enabled over 25 CE and IT manufacturers to develop over 520 one-way cable-ready products for retail. Further the CableLabs licenses and specifications for unidirectional digital cable ready products (“UDCPs”) by their own terms invite the addition of new features and functionalities. CableLabs and its members, through their own actions, have demonstrated a willingness to drive innovation in the UDCP retail market. For example, under CableLabs’ licenses, and through a ground-breaking agreement between CableLabs and Microsoft, Microsoft Vista PCs will be able to receive high-definition cable services through a CableCARD-enabled OpenCable Unidirectional Receiver (“OCUR”); Sony launched (then discontinued) its own CableCARD-enabled digital cable ready DVR; and TiVo is now selling its CableCARD-enabled Series 3 high definition DVR with a TiVo-branded guide. Even with respect to these one-way products, competitive devices obviously have not been precluded by CableLabs licenses.

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<sup>2</sup> See CEA Charter Comments at 3, 5-8; CEA Comcast Comments at 13. See also TiVo Opposition at 4.

<sup>3</sup> CEA Charter Comments at 7; CEA Comcast Comments at 14.

With respect to *two-way* devices, CableLabs offers the CHILA<sup>4</sup> and a license to implement OCAP.<sup>5</sup> To date, the CHILA license has been signed by major CE companies including Samsung, LG Electronics, Panasonic, Toshiba, ADB, Thomson, Digeo, CISCO/Scientific-Atlanta, Motorola, Stezar, SunPlus, Markus, Himax, Funai Electric, and Video Without Boundaries, as well as by IT and component manufacturer companies such as ATI, Broadcom, Digital Keystone, and Micronas.

The license for the OCAP technology enables retail cable-ready devices to receive the full panoply of cable operator services, including an interactive guide and VOD services, as well as interactive applications and services.<sup>6</sup> It has been signed by, among others, Samsung, Panasonic, LG Electronics, and Toshiba, and is being used to develop OCAP-enabled products today. OCAP provides a “middleware” software layer that allows CE manufacturers to develop and build nationally-portable interactive retail navigation devices which will work across different cable operators’ systems. With OCAP, CE manufacturers may graduate from technically limited “unidirectional” devices to fully-featured devices capable of receiving interactive cable operators’ program guides, video-on-demand, “switched” channels, interactive programming enhancements and other advanced services which can evolve on the OCAP platform. In turn, cable customers using these OCAP-enabled devices will be able to receive the communications and entertainment services that cable operators provide, as intended by Section 629.<sup>7</sup> In contrast, without OCAP, a retail cable ready device would not be able to run, and consumers using those devices would not be able to receive, the many different kinds of guides, video-on-demand, and interactive services that different cable operators provide in a variety of ways.

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<sup>4</sup> The Commission has acknowledged that CHILA is a reasonable pathway to development of commercially-available interactive digital cable ready devices. *Implementation of Section 304 of the Telecommunications Act of 1996*, CS Docket No. 97-80, Second Report and Order, 20 FCC Rcd 6794, 6801-6802, 6811 (2005) (“Second Report and Order”).

<sup>5</sup> The Commission has also recognized OCAP as the pathway to development of commercially-available interactive digital cable ready devices. *Id.*

<sup>6</sup> NCTA has thoroughly described OCAP in previous submissions. *See e.g.*, Letter of Neal Goldberg to Marlene Dortch, CS Docket No. 97-80, November 14, 2005; Report of the National Cable & Telecommunications Association on Two-Way (Interactive) Digital Cable Ready Televisions, CS Docket No. 97-80, November 30, 2005; Letter of Neal Goldberg to Marlene Dortch, CS Docket No. 97-80, December 23, 2005 (all incorporated by reference herein).

<sup>7</sup> *See Gemstar International Group, Ltd Petition for Special Relief*, CSR 5528-Z; *Time Warner Cable, Petition for Declaratory Ruling*, CSR 5698-Z, Memorandum Opinion and Order, 16 FCC Rcd 21531, 21542 (2001) (“The Commission has not found that the right to attach consumer electronics equipment to a cable system can be expanded to include the obligation by cable operators to carry any service that is used by such equipment, nor is the legislative history supportive of such a requirement. Indeed, the scope of Section 629 apparently was ‘narrowed to include only equipment used to access services provided by multichannel video programming distributors’” *citing* S. Conf. Rep. No 104-230 at 181 (1996)).

## II. OCAP Promotes Development of Multi-Function Two-Way Retail Products.

OCAP was developed at CableLabs in conjunction with CE manufacturers and others<sup>8</sup> and has been adopted as an international standard at the UN-sponsored ITU and at the ANSI-certified SCTE.<sup>9</sup> The Commission has also written favorably about the development and deployment of OCAP.<sup>10</sup> Nevertheless, CEA and others take issue with the OCAP specification, claiming it does not promote competition and inhibits the development of multifunction devices.<sup>11</sup> These claims are wrong.

The OCAP license and related licenses and specifications have been crafted, with CE and IT participation, to accommodate multifunctional retail devices, not to frustrate them. In fact, the cable industry has invited CE manufacturers to combine set-top functionality with, among other things, gaming consoles, over-the-air DTV tuners, Internet feeds from other content sources, competing program guides and personal computers. The cable industry worked diligently with CE and IT interests to enable the integration of these set-top functionalities into digital television sets and other multi-function devices. OCAP specifically permits retail devices

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<sup>8</sup> CableLabs is a nonprofit research and development consortium that creates common specifications and promotes standards in the cable industry. The process it follows for adopting specifications invites input from CE manufacturers, cable operators and others. CE and IT companies helped write the OpenCable OCAP specification. Over 500 CE, IT, content, and other companies are members of the CableLabs OpenCable project. The CableLabs' specification development process has produced enormous public benefit. For example, the CableLabs process standardized the DOCSIS modem, cutting the cost of such devices from over \$500 to under \$50. At that price, cable modem purchases by consumers took off bringing with them significant broadband penetration. Likewise, CableLabs PacketCable specification is enabling VoIP competition over cable systems. This process is so successful that it has been imitated by WiMAX, DSLHome, and MovieLabs.

<sup>9</sup> CE and IT companies also actively participate in ITU and SCTE standards-setting processes.

<sup>10</sup> *See, e.g.*, Second Report and Order at 6801-6802 (In describing the first cable-CE status report, the Commission stated that OCAP is "the basis for interactive functionality in two-way devices" and that OCAP "was far along in development by CableLabs and the parties were cooperating regarding the harmonization of the broadcast Digital Applications Software Environment ("DASE") and OCAP standards necessary to enable manufacture of devices that can receive interactive content from both digital cable and over-the-air digital broadcasting."); *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 02-145, Ninth Annual Report, 17 FCC Rcd 26,901, 26,970 (2002) (OCAP "is designed to enhance the ability of the consumer electronics industry to build and market integrated DTV sets, digital set-top boxes, and other navigation devices directly to consumers. OCAP 1.0 provides specifications for the downloading and execution of applications, such as program guides and interactive content, to any OCAP-enabled devices by any cable system supporting OCAP.")

<sup>11</sup> For example, CEA suggests that competitive devices using OCAP cannot access an operator's electronic program guides, saying that the devices for which waiver is sought have access to electronic program guide metadata, but that "feature is not offered under *any* license for a CE or IT product." CEA Charter Comments at 6 (emphasis in original). *See also* IT Charter Comments at 2-3; IT Comments on Verizon Waiver Request, CSR-7042-Z, filed September 18, 2006, at 5 (OCAP "has nothing to do with conditional access and everything to do with competitive leverage and establishing complete control over consumer devices...."). In fact, the CEA and the IT Comments are conflating the display of an electronic program guide with the "metadata" which periodically populates the guide. As with other interactive services, the fully populated cable guide is available to portable retail devices via OCAP, as was specifically agreed in the landmark December 12, 2002 CE-Cable "Plug and Play" Agreement. *See* note 30, *infra*.

to offer these non-cable features.<sup>12</sup> The work of a joint CE-cable engineering team on such multi-function devices has been translated into a technical amendment to the OCAP specification that with CEA's approval is being processed under the usual OpenCable specification development and modification procedures.<sup>13</sup> Sony in particular participated in this collaborative process.

In a related argument, the IT Comments imply that the cable industry is using robustness rules, among other license and specification provisions, to prevent IT companies from including cable ready capability in PCs.<sup>14</sup> That is untrue. CableLabs and Microsoft have reached an agreement that will allow Microsoft and PC manufacturers to bring to market digital cable ready Windows Media Center-based PCs with Microsoft's Vista operating system.<sup>15</sup> This agreement will allow consumers to enjoy one-way cable programming, including premium high definition content, on their personal computers and throughout the home on compliant network-connected devices. CableLabs has also reached an agreement with RealNetworks to secure cable content on new PCs with Real Helix DRM.<sup>16</sup> It is true that PCs must meet certain robustness requirements – just as with any device that handles commercial video content from any source. Robustness rules are critical to keeping content secure and networks operational, and these rules are consistent with those adopted in other industry segments.<sup>17</sup> Given the successful conclusion of the agreements between CableLabs and both Microsoft and RealNetworks, and the imminent retail availability of PC products built pursuant to those agreements, it cannot be said that the cable industry is using robustness rules to prevent PCs from receiving cable content.

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<sup>12</sup> See, e.g., OpenCable Application Platform Specification, OC-SP-OCAP1.0-I16-050803, Section 1.2.2; Section 7.2.1.5; Section 10.2.2.6; Section 10.2.2.7; Section 16.2.2.1. See CHILA, § 5.2 (“Nothing in this Agreement shall preclude Licensee from including in a Host Device additional features or functionalities not specified in the OpenCable Specifications” so long as the service, network, and security is not harmed.). OCAP § 2.7 is a parallel clause. For example, contrary to the claim in the TiVo comments (at 4) that OCAP requires “sacrificing control of the user interface, functionalities, and other capabilities that make TiVo unique and attractive to customers,” under the OCAP specification for two-way devices, a TiVo DVR could continue to offer a TiVo guide exactly like the Series 3 guide.

<sup>13</sup> Joint Status Report of the Consumer Electronics Association and the National Cable & Telecommunications Association, CS Docket No. 97-80, September 29, 2006.

<sup>14</sup> IT Charter Comments at 2-3.

<sup>15</sup> “Microsoft and CableLabs Announce Agreement to Enable High-Definition Digital Cable Programming on Windows-Based PCs,” November 16, 2005, available at [http://cablelabs.com/news/pr/2005/05\\_pr\\_microsoft\\_111605.html](http://cablelabs.com/news/pr/2005/05_pr_microsoft_111605.html).

<sup>16</sup> “CableLabs and RealNetworks Bring Video Services to the PC,” April 9, 2006, available at [http://www.realnetworks.com/company/press/releases/2006/real\\_cablelabs.html](http://www.realnetworks.com/company/press/releases/2006/real_cablelabs.html).

<sup>17</sup> See, e.g., “Copy Protection Broken on Some PCs,” BROADCAST ENGINEERING, July 21, 2006 (reporting hack of Windows Media DRM to access HD motion pictures displayed on PC screen).

Moreover, there is marketplace evidence that CE companies are now developing and manufacturing competitive devices that utilize OCAP. For example, Samsung and Panasonic are building OCAP-enabled set-top boxes and Samsung's two-way OCAP-enabled two-way digital television set has already been certified under the CableLabs testing process and is slated for retail distribution later this year.<sup>18</sup> CE manufacturers have also underscored their strong backing for OCAP:

- Panasonic has told the Commission of its “strong support for the use of OCAP as a solution for interactive digital cable-ready products [which] will simplify the requirement for compliance testing, while enabling innovation in both cable systems and consumer products.”<sup>19</sup>
- Samsung told the Commission that it “is working with the cable industry, as well as other consumer electronics manufacturers, to develop [OCAP which] will enable a cable system’s interactive services (*e.g.*, interactive program guide, video on demand, pay-per-view programming) to work with OCAP-equipped navigation devices (*e.g.*, set top boxes, televisions), despite the wide variation among cable head ends and cable-ready navigation devices.... OCAP can provide the foundation for compatibility between cable systems and retail interactive digital cable ready (‘IDCR’) devices provided by consumer electronics manufacturers.”<sup>20</sup>
- At the 2006 Consumer Electronics Show, Dr. Hee-Gook Lee, Chief Technology Officer of LG Electronics, upon signing the OCAP agreement, said: “Next-generation consumer electronics products that access interactive digital cable services will represent both a tremendous benefit for consumers and a significant business opportunity for our retailers. Moving ahead with the OCAP agreement allows us to work closely with CableLabs and the North American cable industry on exciting interactive applications now, while continuing to work in parallel on the Interactive Digital Cable Ready technologies related to the future bi-directional plug-and-play digital cable standard.”<sup>21</sup>

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<sup>18</sup> “Samsung and Time Warner Cable Ready OCAP-STB Tests for Fall,” CONSUMER ELECTRONICS DAILY, July 20, 2006, at 1; COMMUNICATIONS DAILY, May 25, 2006. (“Time Warner will market a Scientific-Atlanta (S-A) OCAP-equipped set-top box (STB), while Samsung fields a 50-56W DLP-based rear projection TV with 1280x720p resolution, a DOCSIS cable modem and OpenCable software stack .... Retailers in each market will sell the Samsung OCAP sets ... .”)

<sup>19</sup> Panasonic March 31, 2006 ex parte in CS Docket 97-80, at 2.

<sup>20</sup> Samsung September 29, 2006 ex parte in CS Docket 97-80, at 2.

<sup>21</sup> “LG Electronics Signs CableLabs Licenses For Two-Way Digital Cable Products,” CableLabs Press Release, January 6, 2005, available at [http://cablelabs.com/news/pr/2005/05\\_pr\\_ocap\\_010605.html](http://cablelabs.com/news/pr/2005/05_pr_ocap_010605.html).

Furthermore, the cable industry is strongly committed to OCAP. In December, 2001, cable operators told the Commission that they would support OCAP-enabled products brought to the retail market as soon as they were available.<sup>22</sup> In an NCTA filing almost a year ago, the cable industry proposed that OCAP be the basis for a regulatory framework with enforceable FCC rules to bring two-way products to market as soon as possible.<sup>23</sup> That framework included a proposed schedule for cable operator support for OCAP-enabled products.

Subsequently, at the 2006 Consumer Electronics Show, six of the nation's largest cable operators committed to deploy OCAP over the next few years. At that same show, Brian Roberts, President and CEO of Comcast and then-Chairman of the CableLabs Board of Directors, commented: "The North American cable industry is very committed to OCAP, and to deploying interactive services through retail and leased digital devices. Leading consumer electronics companies such as LG can greatly help us and our customers by creating innovative and commercially viable products that access advanced cable services."<sup>24</sup>

With demonstrated support from both major consumer electronics companies and the cable industry, there should be no doubt that OCAP will promote, not inhibit, the commercial availability of two-way, cable ready products. In contrast, those who argue against OCAP cannot proffer a better solution that can be implemented in any clear timeframe, let alone in a timely manner. The technology to support a non-OCAP alternative does not exist and would likely take millions of dollars and several years to develop, forcing a diversion of resources away from OCAP, downloadable security, the transition to digital, and other high-priority items. It would also require major redesigns of cable networks, as well as significant changes in how new services are deployed. If CEA and others who question the use of OCAP in two-way devices are genuinely interested in entering the market for two-way retail products anytime soon, it is difficult to understand how they could do so without the use of OCAP.

Indeed, it is ironic that, while some commenters complain that CableLabs specifications and licenses are being used to limit the functionality of retail devices to the detriment of consumers, they in turn suggest that the Commission should restrict the capabilities of cable operator leased set-tops. Specifically, TiVo and Sony advocate that any grant of Charter or Comcast's pending waiver requests should be limited to set-top boxes which would be stripped of consumer-friendly functionalities, such as an electronic program guide (and any on-demand

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<sup>22</sup> Letter from William A. Check, NCTA, to Ms. Magalie R. Salas, Secretary, FCC, PP Docket No. 00-67, December 26, 2001 (transmitting letter from cable operators describing their intentions to implement the OCAP specification in their systems so that those systems would support CableLabs-certified, OCAP-enabled devices once such equipment becomes commercially available).

<sup>23</sup> Letter from Daniel L. Brenner, NCTA, to Marlene H. Dortch, Secretary, FCC, CS Docket No. 97-80, November 30, 2005 (transmitting cable industry proposal and proposed FCC regulations to enable CE manufacturers to bring two-way cable ready devices to market).

<sup>24</sup> "LG Electronics Signs CableLabs Licenses For Two-Way Digital Cable Products," CableLabs Press Release, January 6, 2005, available at [http://cablelabs.com/news/pr/2005/05\\_pr\\_ocap\\_010605.html](http://cablelabs.com/news/pr/2005/05_pr_ocap_010605.html).

content offered from that guide), ostensibly to make such set-tops correspond to UDCPs.<sup>25</sup> Any such limit would turn the navigation device rules upside down.

As noted above, the cable industry has been willing to work with CE companies to create a flexible regime in which TiVo, Sony, and others have added – at their option and discretion – their own competitive program guides and DVR functionality to retail devices that connect to the cable network. TiVo and other CE manufacturers have such flexibility under the terms of both the unidirectional and bidirectional CableLabs licenses and specifications, and have already added their own program guides, DVRs, and non-cable inputs to unidirectional devices. Given this ability to add new features and functionalities to retail devices, it would be discriminatory as well as harmful to consumers to prevent cable operators from using cable guides and other consumer-friendly features on low-cost, limited functionality leased set-top boxes.

More important, the main reason for considering waivers of the integration ban for low-cost, limited capability set-top boxes was to provide consumers a cost-effective way to *expand* consumer access to digital services, including cable operators' video-on-demand services, their electronic program guides, and other services such as parental controls. Limiting a waiver to “one-way” boxes would *restrict* consumer access to the benefits of services they clearly want and value, without any countervailing benefit to the CE industry or anyone else, and contrary to the pro-innovation goals of Section 629. As Charter and Comcast have both explained, imposing such a condition would be tantamount to a denial of the waiver request for low-cost set-top boxes. There are no low-cost, limited-capability, “one-way only” set-top boxes available from any vendor and there apparently are no current plans for any manufacturer, including Sony or TiVo, to make them.<sup>26</sup>

### **III. OCAP is Unnecessary in Cable Leased Boxes.**

CEA and TiVo question why advanced interactive retail devices must use OCAP to run interactive cable services, while cable set-top boxes leased by a cable operator – such as Charter's and Comcast's low-end set-top boxes – need not.<sup>27</sup> The reason is simple: If customers buy an “interactive digital cable ready” device at retail, they expect to take the retail device with them if they move to another cable operator's franchise area. OCAP allows CE manufacturers to build nationally-portable devices for retail sale that can work with interactive services across different cable systems. Devices built to OCAP can be moved to different locations and can be supported by different cable systems. They therefore provide a feature – portability – that a cable operator's leased boxes do not provide.

In this way, OCAP protects consumers by enabling nationwide portability of devices. As explained by Samsung, “[w]ithout such a standard software interface, any navigation device

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<sup>25</sup> TiVo Opposition at 4-5; Sony Charter Comments at 2-3.

<sup>26</sup> See, e.g., Comcast Corporation August 9, 2006 ex parte, CSR-7012-Z, CS Docket No 97-80 at 6; Reply Comments of Charter Communications, Inc, CSR-7049-Z, CS Docket No. 97-80, at 13-15.

<sup>27</sup> CEA Charter Comments at 5-7; TiVo Opposition at 4-5.

must incorporate software specifically designed to interoperate with the cable system where it is used. Cable systems differ widely, and it is impracticable for a cable-ready device to incorporate all of the diverse software used across cable systems nationwide. OCAP offers the capability to bridge this divide in a uniform manner, so a cable-ready device that a consumer purchases could still be used if the consumer moved to a different cable system.”<sup>28</sup> This is why CEA’s member companies specifically agreed in the landmark December 12, 2002 CE-Cable “Plug and Play” Agreement that the “[c]able operators’ EPG will be provided for advanced interactive digital cable products *via OCAP or its successor technology.*”<sup>29</sup>

For all of the reasons stated above, requiring OCAP on portable retail devices is the path to competitive retail devices, not a barrier to them. By contrast, OCAP is not required for use in leased devices (including those with limited capabilities) that are purchased by a single cable operator and are designed only to work in that cable operator’s own system. When customers move, they return the leased box to their provider, who may then make the box available to other customers on the same system. Customers do not own the box, do not take the leased box with them when they move, nor do they expect it to work with another cable operator’s guide, video-on-demand application or other interactive services.<sup>30</sup>

#### **IV. Conclusion**

These various off-topic comments by CE and IT interests are solely intended to distract the Commission from considering the merits of the above-referenced waiver petitions by alleging problems with the development of interactive retail devices. As detailed above, in addition to being completely unrelated to the merits of the waiver requests, these allegations are unfounded. Those commenters seeking to upend this process serve only to delay and frustrate competition and consumers, not serve them.

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<sup>28</sup> Samsung September 29, 2006 ex parte in CS Docket 97-80, at 2.

<sup>29</sup> *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices and Compatibility Between Cable Systems and Consumer Electronics Equipment*, Further Notice of Proposed Rulemaking, 18 FCC Rcd 518 (2003), Appendix B, Memorandum of Understanding, §4.3(emphasis added).

<sup>30</sup> That is not to say that OCAP has no role to play in operators’ leased boxes. In fact, OCAP can also be useful in leased *advanced* set-top boxes which include more resources than the boxes which are the subject of the Comcast and Charter waiver requests. As Panasonic put it, “OCAP is middleware software that enables application developers to create interactive services that OCAP-compliant cable systems can deploy on any OCAP-equipped digital cable-ready device.” Panasonic March 31, 2006 ex parte in CS Docket 97-80 at 2. This is one reason major cable operators have committed to support OCAP – to build a platform that will invite development of interactive applications on advanced set-top boxes. But, contrary to the suggestion in some filings in the above-referenced proceedings, standard definition, single tuner, limited resources low-end digital transition set-tops are not that platform.

Ms. Marlene H. Dortch

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For the foregoing reasons – and those articulated previously by NCTA and other commenters in the above-referenced proceedings – the CE and IT oppositions should be dismissed and the Charter and Comcast waiver requests should be granted.

Sincerely,

**/s/ Neal M. Goldberg**

Neal M. Goldberg

cc: Donna Gregg, Chief Media Bureau  
Andrew Long  
Rick Chessen  
Brendan Murray