



# PUBLIC NOTICE

Federal Communications Commission  
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DA 06-2543

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## MEDIA BUREAU ACTION

### REQUEST FOR WAIVER OF 47 C.F.R. § 76.1204(a)(1) FILED WITH THE COMMISSION

CSR-7078-Z Docket No. 97-80

**Comment Date: January 8, 2007**

**Reply Comment Date: January 18, 2007**

Cablevision Systems Corporation (“Cablevision” or “Petitioner”) has filed a request pursuant to Section 629(c) of the Communications Act of 1934, as amended,<sup>1</sup> and Sections 1.3, 76.7, and 76.1207 of the Commission’s rules,<sup>2</sup> for limited waiver of the prohibition set forth in Section 76.1204(a)(1) of the Commission’s rules on offering navigation devices that perform both conditional access and other functions.<sup>3</sup> Cablevision seeks either (1) a clarification that navigation devices that rely upon separate security other than CableCARDS – specifically, SmartCards, a separable-security conditional access system developed by NDS Group plc – are not “integrated devices” for purposes of Section 76.1204(a)(1),<sup>4</sup> or (2) a waiver that will allow Cablevision to continue to place in service navigation devices that utilize SmartCards after July 1, 2007.<sup>5</sup> Cablevision notes that it is the only cable operator currently providing a separate-security solution for all of its digital set-top boxes.<sup>6</sup> The Petitioner also

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<sup>1</sup> 47 U.S.C. § 549(c).

<sup>2</sup> 47 C.F.R. §§ 1.3, 76.7, 76.1207.

<sup>3</sup> See Cablevision’s Request for Waiver of 47 C.F.R. § 76.1204(a)(1) (filed Nov. 27, 2006) (“Waiver Request”).

<sup>4</sup> Section 76.1204(a)(1) of the Commission’s rules states that, “[c]ommencing on July 1, 2007, no multichannel video programming distributor subject to this section shall place in service new navigation devices for sale, lease, or use that perform both conditional access and other functions in a single integrated device.” 47 C.F.R. § 76.1204(a)(1). In 1998, the Commission determined that, beginning July 1, 2000, cable operators must provide separate-security equipment. See *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, 13 FCC Rcd 14775, 14806 (1998). The Commission also concluded that it would look to efforts by CableLabs and OpenCable to develop the technical specifications for that equipment. See *id.* at 14805 (“We believe that the NRSS (EIA-679) and the related CableLabs/OpenCable efforts, when the standards process is complete, will provide a usable standard for digital communications and our rule reflects this premise.”). Those efforts led to the development of what is now referred to as the CableCARD.

<sup>5</sup> Waiver Request at 3.

<sup>6</sup> *Id.* at 2.

asserts that the SmartCard-based conditional access solution it employs supports consumer use of CableCARD-ready consumer electronics devices.<sup>7</sup> Cablevision therefore argues that strict compliance with the integration ban through the addition of CableCARD slots to its SmartCard-enabled digital set-top boxes “would divert substantial financial, technical and human resources from [its] effort to deliver new and improved services” without furthering the Commission’s goals under Section 629.

This proceeding will be treated as “permit but disclose” for purposes of the Commission’s *ex parte* rules.<sup>8</sup> As a result of the permit-but-disclose status of this proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission’s rules applicable to non-restricted proceedings.<sup>9</sup>

Comments and oppositions are due January 8, 2007. All filings should refer to the case identifier, CSR-7078-Z, and CS Docket No. 97-80 and must be submitted in CS Docket No. 97-80. Pleadings sent via e-mail to the Commission will be considered informal and will not be part of the official record. Comments and oppositions filed must indicate that they have been served on Petitioner. All comments and oppositions must be served on Petitioner:

Michael E. Olsen  
Vice President, Legal and Regulatory Affairs  
Cablevision Systems Corporation  
1111 Stewart Avenue  
Bethpage, New York 11714

Petitioner’s reply is due January 18, 2007.

Comments may be filed using: (1) the Commission’s Electronic Comment Filing System (ECFS), (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies.<sup>10</sup>

Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and the applicable docket number: CS Docket No. 97-80. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message: “get form”. A sample form and instructions will be sent in response.

Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary,

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<sup>7</sup> *Id.* at 4-5.

<sup>8</sup> See 47 C.F.R. §§ 1.1200-1.1216.

<sup>9</sup> 47 C.F.R. § 1.1206.

<sup>10</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322, 11326, para. 8 (April 6, 1998).

Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554.

One copy of each pleading must be sent to Brendan Murray, Media Bureau, Room 4-C841, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554 or [Brendan.Murray@fcc.gov](mailto:Brendan.Murray@fcc.gov).

Copies of the Waiver Request and any subsequently filed documents in this matter are also available for inspection in the Commission's Reference Information Center:

445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554  
(202) 418-7092

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For further information, contact Brendan Murray of the Media Bureau, (202) 418-1573. Press inquiries should be directed to Rebecca Fisher of the Media Bureau, (202) 418-2359. TTY: (202) 418-7172 or (888) 835-5322.

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