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Federal Communications Commission
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FOR IMMEDIATE RELEASE
September 10, 2003

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FCC EASES DIGITAL TV TRANSITION FOR CONSUMERS *Competition, Convenience, and Simplicity Cited as Key Goals of “Plug and Play” Rules*

Washington, D.C. - The Federal Communications Commission (FCC) today took another step forward in the transition to digital television. The FCC adopted rules for digital “plug and play” cable compatibility, which is a key piece of the digital television puzzle. In a “plug and play” world, consumers can plug their cable directly into their digital TV set without the need of a set-top box. The FCC said the new rules will ease the transition to digital TV by promoting competition, convenience and simplicity for consumers.

On December 19, 2002, the cable and consumer electronics industries filed with the FCC a Memorandum of Understanding (MOU) containing both voluntary and inter-industry agreements and a package of regulatory proposals. Today’s *Second Report and Order* adopts the proposed technical, labeling and encoding rules with certain modifications.

The new rules will permit TV sets to be built with “plug and play” functionality for one-way digital cable services, which include typical cable programming services and premium channels like HBO and Showtime. Consumers will have to obtain a security card (often called a “POD” or “cable card”), from their local cable operator, to be inserted into the TV set.

Consumers will still need a set-top box to receive two-way services such as video on demand, impulse pay-per-view and cable operator-enhanced electronic programming guides. The FCC noted that the cable and consumer electronics industries continue to work on the development of an agreement for two-way “plug and play” receivers that would eliminate the need for a set-top box to receive these advanced cable services. The FCC encouraged the cable and consumer electronics industries to consult with interested parties and affected industries as the two-way negotiations progress.

The cable and consumer electronics industries also filed a model license for the DFAST scrambling technology, which protects content from unauthorized use. Although the parties did not seek regulatory action on the license, it contemplates FCC review of certain issues in case of dispute. The FCC concluded that, given the importance of these products as a portal into consumers’ homes for content in the digital age, further consideration of how changes and innovations should be approved is warranted. The Order initiates a *Second Further Notice of Proposed Rulemaking (FNPRM)* to examine these issues, and adopts an interim policy by which CableLabs would make preliminary determinations regarding new outputs and/or associated content protection technologies, subject to FCC review.

The FCC also noted that it will address Digital Broadcast Copy Protection issues in the near future.

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Specifically, today's *Second Report and Order* and *Second FNRM* take the following actions:

Digital Cable System Transmission Standards and Support Requirements

- Transmission standards – All digital cable systems must operate in conformity with specific technical standards. Small cable systems can obtain a waiver where the requirements would be unduly burdensome.
- POD Security Cards – All cable operators must maintain a sufficient supply.
- High-definition set-top boxes - Starting April 1, 2004, cable operators must supply, upon request, high-definition set-top boxes with functional 1394 “firewire” connectors. By July 1, 2005, all high-definition set-top boxes would also require a digital visual interface (“DVI”) or a high definition multimedia interface (“HDMI”).

Labeling and Consumer Disclosures

- Labeling – Manufacturers who label their DTV receivers as “Digital Cable Ready” must meet certain technical standards, complete a testing and verification process and equip their receivers with a DVI or HDMI interface using high-bandwidth digital content protection (“HDCP”) technology. The interface requirement would be gradually phased-in on a receiver screen-size basis along a similar timeframe as the DTV broadcast tuner phase-in schedule.
- Broadcast Tuner – DTV televisions labeled “Digital Cable Ready” must include an over-the-air DTV tuner.
- Consumer Disclosures – Manufacturers are required to include post-sales material, such as an owner’s guide, language informing consumers about the functionality of the device and the need to obtain a security card from their cable operator. Additionally, the FCC is encouraging manufacturers and cable operators to provide this information to consumers before the sale occurs. The FCC is asking in the Further Notice whether it should take action to require pre-sale notification.

Limits on Copy Protection Mechanisms

- Authority – The FCC asserted its authority under Section 629 and its ancillary jurisdiction.
- No Impact on Copyright Law – The FCC stressed that its rules are not intended in any manner to affect the copyright rights and remedies of consumers and content owners.
- Selectable Output Control – The current use of selectable output controls by all multichannel video programming distributors (MVPDs) is prohibited.
- Down-resolution – Down-resolution (reducing the resolution of high-definition programming to standard-definition) is prohibited for broadcast programming by all MVPDs; the FCC said that down-resolution of non-broadcast programming will be addressed in the Further Notice. In the interim, MVPDs intending to use down-resolution for non-broadcast programming are required to notify the FCC at least 30 days in advance.

- Caps on Copy Protection Encoding - The encoding rules, which are applicable to all MVPDs, are modeled generally upon the Digital Millennium Copyright Act:
 - (i) Copy never: pay-per-view, video-on-demand
 - (ii) Copy once: basic and extended basic cable service
 - (iii) No restrictions on copying: broadcast television

Application of the rules does not extend to distribution of any content over the Internet or an MVPD's services offered via cable modem or DSL. The Order includes a petition process for new services or business models that may be developed in the future. This process would involve case-by-case determinations of whether specific encoding rules are in the public interest.

DFAST License

- FCC Oversight – The MOU included a model agreement for the use of patented scrambling technology for the POD-Host Interface. While no regulatory action was requested on the license, it does contemplate FCC appellate oversight in cases of dispute over compliance and robustness rules. The FCC said that parties with complaints may file petitions for special relief to resolve these disputes.
- Approval of New Connectors and Content Protection Technologies – The DFAST license anticipates FCC appellate oversight in cases of dispute over CableLabs determinations regarding the use of new connectors and content protection technologies. The Order follows the proposed DFAST license procedures as an interim policy while initiating a *Second Further Notice* seeking comment from the public, including other industries and consumer advocacy groups, on whether additional methods for approving new technologies should be adopted.

Second Further Notice of Proposed Rulemaking

Issues raised in the Second FNPRM include:

- Potential processes for approving new digital output and content protection technologies, including potential use of “objective criteria”;
- Potential requirement of pre-sale consumer disclosures;
- Potential use of down-resolution for non-broadcast programming;
- Potential applicability of rules that apply to 750 MHz cable systems to also apply to 550 MHz systems

Action by the Commission, September 10, 2003, by Second Report and Order and Second Further Notice of Proposed Rulemaking (FCC 03-225). Chairman Powell, Commissioners Abernathy, Copps, Martin, and Adelstein, with all Commissioners issuing statements.

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CS Docket 97-80
PP Docket 00-67

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