

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

In the Matter of	)	
	)	
TiVo Inc.	)	
Petition for Clarification or Waiver	)	
of 47 C.F.R. § 76.640(b)(4)	)	
	)	CS Docket No. 97-80
Implementation of Section 304 of the	)	
Telecommunications Act of 1996;	)	
Commercial Availability of Navigation	)	
Devices	)	

**PETITION OF TIVO INC.  
FOR WAIVER OR CLARIFICATION OF 47 C.F.R. § 76.640(b)(4)(iii)**

August 29, 2014

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## SUMMARY

TiVo Inc. (“TiVo”) respectfully requests further waiver or clarification with respect to the requirement that TiVo products supplied wholesale to cable operators must include an industry-standard, interactive, and recordable home networking interface, as set forth in Section 76.640(b)(4)(iii) of the Commission’s Rules.

As a DVR provider that competes in the retail marketplace and also supplies its products and services to smaller and mid-size cable operators, TiVo has been obliged to innovate in advance of standards finalization and industry procurement practices. TiVo’s existing home networking technology anticipates and in many respects surpasses the requirements of Section 76.640(b)(4)(iii) and those that the Commission has identified as a point of reference for home network interoperability.

Consumers who lease TiVo products from their cable operators already enjoy the benefits of home networking that the rule seeks to enable in the future. However, TiVo’s technology does not have all elements of an open industry standard as that term has been defined by the Commission, and thus does not meet the letter of the rule. Requiring strict compliance with the rule would serve no public interest purpose and would be extremely expensive for TiVo after it has already invested in developing a solution that satisfies the purpose of Section 76.640(b)(4)(iii). Strict rule compliance also would harm the smaller and mid-size cable operators who rely on TiVo products and services to provide a superior DVR technology to their subscribers.

Granting this waiver, which TiVo seeks on behalf of the cable operators to which it supplies DVR products or services, will not interfere with home network interoperability on these or any other cable systems. There is strong and recent precedent

for the Media Bureau to grant waivers on behalf of operators who have taken steps to anticipate precompetitive outcomes as sought in Commission regulations.

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**PETITION OF TIVO INC.  
FOR CLARIFICATION OR WAIVER OF 47 C.F.R. § 76.640(b)(4)(iii)**

TiVo Inc. (“TiVo” or “Petitioner”), on behalf of cable operators to which it supplies DVR products or services, respectfully requests a waiver or clarification of the requirement that operators must include an industry standard home networking interface, as set forth in Section 76.640(b)(4)(iii) of the Commission’s Rules.<sup>1</sup> TiVo is uniquely positioned in the set-top box market because it sells DVR products and services at retail while also furnishing essentially the same products and services to cable operators for subscriber lease. While supporting the home networking interface provision and twice taking the lead in obtaining clarifications of the requirements and extensions of the implementation date,<sup>2</sup> TiVo, as a retail competitor and operator supplier, has successfully

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<sup>1</sup>47 C.F.R. § 76.640(b)(4)(iii).

<sup>2</sup> *TiVo Inc.’s Request for Clarification and Waiver of the Audiovisual Output Requirement of Section 76.640(b)(4)(iii); Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment*, MB Docket

offered home network interoperability in its own retail products. TiVo’s technology already provides the home networking functionality outlined in Section 76.640(b)(4)(iii) and thus provides consumers with the benefits anticipated by the rule, but does not use an “open industry standard” as the Commission later described that term.<sup>3</sup>

TiVo thus is “ahead of the curve” in offering the home network interoperability that fulfills the purpose, if not the letter, of the Commission’s rule. Consumers who lease TiVo products from their cable operators already enjoy the benefits of home networking that the rule seeks to enable in the future. On the other hand, requiring strict compliance with the rule would serve no public interest purpose and would be extremely expensive for TiVo after it has already invested in developing a solution that satisfies the purpose of Section 76.640(b)(4)(iii). Requiring strict enforcement also would harm the smaller and mid-size cable operators who rely on TiVo products and services to provide a superior DVR technology to their subscribers.

Accordingly, TiVo requests a waiver of this regulation for its products or services as supplied to cable operators.<sup>4</sup> There is recent precedent for such a waiver based on a

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No. 12-230, CS Docket No. 97-80, PP Docket No. 00-67, Memorandum Opinion and Order, DA 12-1910 (rel. Nov. 28, 2012) (“*Nov. 2012 Memorandum Opinion and Order*”); *Implementation of Section 304 of the Telecommunications Act of 1996, TiVo Inc.’s Request for Clarification or Waiver of the Audiovisual Output Requirement of Section 76.640(b)(4)(iii)*, CS Docket No. 97-80, Memorandum Opinion and Order, DA 14-461 (rel. Apr. 4, 2014) (“*April 2014 Memorandum Opinion and Order*”).

<sup>3</sup> See Section II, *infra*.

<sup>4</sup> The Commission has granted equipment-related waivers to set-top box manufacturers with the understanding that cable operators — the regulated entities — can rely on such waivers when distributing the specified equipment. *Evolution Broadband, LLC’s Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, CSR-7902-Z, CS Docket No. 97-80, Memorandum Opinion and Order, FCC 09-46, ¶ 16 n.44 (rel. June 1, 2009).

forward-looking investment toward the end sought by the regulation.<sup>5</sup> In light of TiVo's unique status as a retail provider and operator supplier and the fact that all TiVo set-top boxes will use a home networking solution designed for the retail market, granting this waiver will in no way undermine the purpose or impede the implementation of Section 76.640(b)(4)(iii).<sup>6</sup>

**I. TIVO HAS BEEN A LEADER IN ACHIEVING HOME NETWORK INTEROPERABILITY IN ITS RETAIL AND OPERATOR-LEASED PRODUCTS.**

As a retail-based competitor in a device industry dominated by operator-supplied products, TiVo has been obliged to be “ahead of the curve” in order to remain competitive. It is well known that TiVo pioneered the home DVR product category. Faced with competition from cable operators promoting their leased DVR products, TiVo has fought for a level playing field in home DVR products, as such products are becoming more advanced and achieve greater technical capabilities. In addition to being able to access, acquire, and store programming for later viewing, consumers enjoy the flexibility to access such programming on mobile devices on home networks as well as on conventional, fixed video displays. As it has noted in prior submissions to the

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<sup>5</sup> *Cablevision Systems Corporation's Request for Waiver of Section 76.1204 (A)(1) of the Commission's Rules*, CSR-7078-Z, CS Docket No. 97-80, Memorandum Opinion and Order, DA 07-48 (rel. Jan. 10, 2007) (“2007 Cablevision Waiver”).

<sup>6</sup> TiVo notes further that any waiver application would be moot if the Commission should determine that this regulation is no longer operative based on *EchoStar Satellite L.L.C. v. FCC*, 704 F.3d 992 (D.C. Cir. 2013). In such case this Petition may be treated as one for clarification.

Commission,<sup>7</sup> TiVo cannot afford to wait to see what the major operators implement in the area of home networking. By the time TiVo finds out, the major operators will be nearing deployment and it will be too late for TiVo's retail products and TiVo's smaller and mid-sized cable operator customers to remain competitive.

For this reason, and because TiVo has always sought to distinguish its products in the retail market by providing innovative, advanced features not available on devices leased from cable operators, TiVo has maintained its leadership in home networking as well as in DVR products and services. In June 2011, TiVo released multi-room streaming as an enhancement to its long-standing multi-room technology that allowed recordings to be shared among TVs in the home.<sup>8</sup> In February 2012, TiVo announced TiVo Stream, which allows programs to be streamed to an iPad or iPhone.<sup>9</sup> In May 2012, TiVo announced and demonstrated at the Cable Show an advanced Internet Protocol home networking feature to support interactive operation with other home

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<sup>7</sup> See, e.g., *TiVo Inc. Petition for Clarification or Waiver of 47 C.F.R. §76.640(b)(4)*, CS Docket No. 97-80, Petition of TiVo Inc., at 8 (July 25, 2012) ("*TiVo July 2012 Petition for Clarification or Waiver*").

<sup>8</sup> Press Release, *TiVo Unveils Full Family of Set Top Boxes for Comprehensive Whole Home Solution* (June 13, 2011), <http://pr.tivo.com/press-releases/tivo-unveils-full-family-of-set-top-boxes-for-comp-nasdaq-tivo-0766759>.

<sup>9</sup> See Gabe Galiano, *TiVo Announces New Boxes and Grows Subscribers with 2011 Q4 Results*, Tech of the Hub, Feb. 23, 2012, <http://www.techofthehub.com/2012/02/tivo-announces-new-boxes-and-grows-subscribers-with-2012-q4-results.html>; Press Release, *TiVo Launches TiVo Stream, Enabling Subscribers to Watch Recordings on Their iPads for the First Time* (Sept. 6, 2012), <http://investor.tivo.com/phoenix.zhtml?c=106292&p=irol-newsArticle&ID=1732212&highlight>.

network products.<sup>10</sup> This feature was implemented in the TiVo Mini and the TiVo Stream, supporting fixed and portable viewing respectively throughout the home.

While developing these products, TiVo had to work ahead of the ongoing DLNA process that only recently resulted in the public release of the CVP-2 profile specifications. Though it is generally supportive of the DLNA initiative, TiVo could not anticipate the precise outcomes of the DLNA process or the timing and content of published specifications, and had to develop its own home networking solution in order to maintain its role in providing innovative solutions to retail consumers that allow them to share and view cable content on a variety of devices in the home. Even after the release of the DLNA CVP-2 specification, it is too soon for TiVo to anticipate precisely how these specifications will be implemented by major cable operators.

**II. TIVO'S UNIQUE STATUS AS PRIMARILY A RETAIL PRODUCT HAS REQUIRED TIVO TO TAKE THE LEAD WITH RESPECT TO THE REQUIREMENTS OF SECTION 76.640(b)(4)(iii).**

After observing a lack of consensus in the industry on how Section 76.640(b)(4)(iii) would be implemented, TiVo petitioned for clarification and waiver of this provision in July 2012. TiVo encouraged the Commission to supply a technical frame of reference, but underlined that TiVo must continue to develop and market competitive products rather than wait and try to catch up to what its larger competitors have actually implemented.<sup>11</sup> On November 28, 2012, the Media Bureau, acting on

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<sup>10</sup>See Richard Lawler, TiVo's Stream Transcoding Box and IP Connected Extender Make Their Debut at Cable Show 2012, at <http://www.engadget.com/2012/05/21/tivo-stream-ip-stb-cable-show-2012/>.

<sup>11</sup> TiVo noted in its July, 2012 petition:

TiVo's petition, released a Memorandum Opinion and Order that clarified the Bureau's expectations with respect to compliant standards. After declining to specify a single home networking standard, the Commission clarified what it meant by an "open industry standard," specifying that it would analyze a set of specifications based on elements such as openness, due process, and consensus.<sup>12</sup> The Commission noted that this clarification was "consistent with [our] intent in the *2010 CableCARD Order* to give the industry flexibility to use cutting-edge standards rather than lock a specific standard in place, while ensuring that cable operators do not rely on proprietary specifications that reject input from interested parties."<sup>13</sup> The Commission then observed that "[t]he record indicates that most cable operators plan to use a future version of the DLNA Premium Video profile as a home-networking solution to comply with Section 76.640(b)(4)(iii)."<sup>14</sup> Accordingly, the Bureau, while not requiring that compliance be achieved exclusively

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Because TiVo is not itself a cable operator and has a very small share of the market for set-top boxes as supplied to operators, TiVo must wait upon decisions of others before it can ascertain the necessary industry standards and begin implementation. If, in the interim, TiVo products are considered noncompliant, TiVo's investments to date to gain even a small foothold in the market to supply products to operators would be impaired or destroyed. Such a result would be counter to the goals of the Commission's rules under Section 76.640: to promote competition in video navigation devices, offer cable operators and consumers an alternative to the incumbent set-top box providers used by cable systems, and to promote innovation by expanding the functionality of set-top boxes. *TiVo July 2012 Petition for Clarification or Waiver* at i.

<sup>12</sup> *Nov. 2012 Memorandum Opinion and Order*, ¶ 11.

<sup>13</sup> *Id.* (citations omitted).

<sup>14</sup> *Id.* ¶ 12.

through the DLNA solution, used it as the touchstone for calculating a date achievable for industry-wide compliance.

On January 3, 2014, TiVo requested from the Media Bureau a further waiver and clarification, based on the fact that DLNA's "CVP-2" profile specification had not yet been finalized or made public. (Additionally, the Bureau had in the interim expressed uncertainty over this regulation's legal status in light of the D.C. Circuit's decision in *EchoStar*.<sup>15</sup>) In April, the Bureau acted on TiVo's petition by granting a further extension of the compliance date.<sup>16</sup>

In the interim, in keeping with its history of competing on a retail and wholesale basis with operator-provided leased devices by providing innovative, advanced features in its products, TiVo has achieved industry-leading home network interoperability solutions that provide *more* user features and functionality than do the baseline DLNA specification, as now made public. Today, despite TiVo's prior efforts to achieve a universal, level-playing-field solution, it would hinder TiVo's ability to compete on both a retail and a wholesale level if TiVo were required to "back up" to the DLNA solution, which has still yet to be translated into (specific) operator procurement requirements.

**III. TIVO'S TECHNOLOGY SATISFIES THE INTEROPERABILITY OBJECTIVES OF SECTION 76.640(b)(4)(iii) WHILE OFFERING CONSUMERS ADDITIONAL FEATURES.**

To maintain its ability to compete in the retail marketplace, TiVo has designed its products from the outset to foster the pro-competitive objectives of this regulation.

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<sup>15</sup> *EchoStar Satellite L.L.C. v. FCC*, 704 F.3d 992 (D.C. Cir. 2013).

<sup>16</sup> *April 2014 Memorandum Opinion and Order*.

Consumers today can purchase retail TiVo DVRs and ancillary devices that support iOS and Android products, as well as TVs (using the TiVo Mini), and that soon will support additional ancillary devices that are popular with consumers. TiVo’s technology provides support for audiovisual communications including service discovery, video transport, and remote control command pass-through standards for home networking as required by Section 76.640(b)(4)(iii). TiVo’s technology is already widely used by small and mid-sized cable operators and retail consumers. TiVo has invested significant resources bringing these multi-room and multi-platform capabilities to market and continues to invest in and further develop them. TiVo’s solution is accessible today and complies with the objective of the rule to enable home networking interoperability, but is not an “open standard” as the Commission has specified that term in its November 2012 *Memorandum Opinion and Order*.<sup>17</sup>

As implemented, the TiVo technology far exceeds the minimum requirements of Section 76.640(b)(4)(iii) and the published DLNA CVP-2 specification. Operator content received via CableCARD (linear, DVR recordings and MSO VOD) can be shared with any TV in the home using an adapter. Linear and DVR recordings can be streamed and/or downloaded to mobile devices. Expansion of this solution to additional devices in the home is on TiVo’s future product roadmap. TiVo remains supportive of DLNA as a standard reference for assured capability, but, as explained below, TiVo’s existing technology exceeds what DLNA requires. While there most likely will be elaborations as implemented, the DLNA CVP-2 reference alone currently does not provide a solution for the growing number of devices that consumers want to use for consuming content, for

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<sup>17</sup> *Nov. 2012 Memorandum Opinion and Order*, ¶ 11.

reasons including the following:

- Set-top box (“STB”) products and CableCARDs use older MPEG2 technology, while the world of consumer IP devices such as phones and tablets, and streaming devices such as Roku use a newer incompatible standard of MPEG4. These devices are unable to view MPEG2 content. DLNA compliance does not assure a solution to this problem.
- TiVo’s “trickplay” functionality cannot be maintained using a standard MPEG2 transport stream. TiVo must modify the stream to provide MPEG 2 content to other STBs or TiVo Mini while preserving our trickplay functionality. This deviates from the DLNA solution but would not hinder interoperability of TiVo or other home network products with any other solution.
- A home network solution for other services like VOD does not exist today, and would require close coordination with DLNA-compliant devices, of which there are none in the market. A remote user interface from the operator must be tested with all CE devices. TiVo’s solution can support such a result without being limited in ways described above.

TiVo’s solution transports all content from a set-top box to consumer IP devices, including game players and Smart TVs (with a TiVo Mini adapter). Such features and supported consumer devices will only continue to grow, while the number of MPEG2 devices will continue to dwindle and the availability of DLNA-compliant devices is unknown. TiVo also has developed products that transcode from MPEG2 to MPEG4 and has achieved CableLabs approval to securely stream content to consumer-owned devices, including iOS devices.<sup>18</sup>

To summarize, though it does not possess the elements of an “open industry standard,” as specified by the Commission, TiVo’s home networking technology satisfies the purpose of Section 76.640(b)(4)(iii) while providing consumers with additional features that go beyond what the existing open industry standard would support.

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<sup>18</sup> TiVoGuard for Streaming is an approved method for streaming Controlled Content to devices on a subscriber’s home network under Section 3.5 of the CableLabs Compliance Rules and is implemented in a manner that is technologically unique to TiVo.

**IV. GRANT OF A WAIVER IS SUPPORTED BY GOOD CAUSE BECAUSE TIVO'S HOME NETWORKING SOLUTION FULFILLS THE OBJECTIVES OF SECTION 76.640(b)(4)(iii) AND STRICT COMPLIANCE WITH THE RULE WOULD CAUSE SIGNIFICANT HARDSHIP TO TIVO AND THE SMALL AND MID-SIZED CABLE OPERATORS WHO RELY ON TIVO PRODUCTS.**

Waiver of the Commission's rules is permitted upon a showing of "good cause."<sup>19</sup>

The Commission may exercise its discretion to waive a rule "where particular facts would make strict compliance inconsistent with the public interest."<sup>20</sup> The Commission has noted that in order to be granted a waiver, an applicant must show that "any benefits achieved by its proposal are in the public interest and that a waiver would not compromise the fundamental policies served by the rule."<sup>21</sup> As explained below, good cause exists for waiver of the rules because grant of a waiver will serve the public interest in providing cable subscribers using TiVo boxes with advanced home networking capabilities while not compromising the fundamental purpose served by the rule — *i.e.*, enabling home networking by consumers "while ensuring that cable operators do not rely on proprietary specifications that reject input from interested industries."<sup>22</sup>

As explained in the previous Section, TiVo's existing home networking technology fulfills the objectives of Section 76.640(b)(4)(iii) and provides additional home networking features including streaming to a variety of consumer IP devices. On the retail side, these features allow TiVo to fulfill the retail competition goals of Section

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<sup>19</sup> 47 CFR § 1.3.

<sup>20</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

<sup>21</sup> *Midwest Communications, Inc.*, 7 FCC Rcd 159, 160 (1991).

<sup>22</sup> *Nov. 2012 Memorandum Opinion and Order*, ¶ 11.

629 by providing advanced features and functionality not available in typical cable operator-leased devices. On the wholesale side, TiVo's home networking technology allows the small and mid-sized cable operators who rely on TiVo's products to provide their subscribers with a set-top box that meets the home networking goals of the Commission's rule while providing a superior set-top box + DVR — an otherwise difficult if not impossible proposition for smaller operators that lack the economies of scale of the larger operators.

Moreover, as the Commission has noted, the primary purpose of Section 76.640(b)(4)(iii) is to enable home networking solutions using cutting-edge standards “while ensuring that cable operators do not rely on proprietary specifications that reject input from interested industries.”<sup>23</sup> In this case, TiVo's wholesale solution used by small and mid-sized cable operators is the same solution developed by TiVo for the retail market, and is used today by consumers who use TiVo boxes with numerous different operators around the country. Thus, the specific concern of cable operators using proprietary solutions that do not consider the interests of the retail market is absent in this unique case.

Meanwhile, strict compliance with the use by using an “open industry standard” with all the elements specified by the Commission would be burdensome to TiVo and the small- and mid-sized cable operators who rely on TiVo's products. It would be particularly burdensome for TiVo, having achieved a fully interoperable solution, to have to pause to redesign its products in order to begin with a baseline that achieves less, rather than more, interoperability and access to content. This would effectively penalize

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<sup>23</sup> *Id.*

TiVo for being a leader in bringing advanced solutions to market, and would frustrate rather than assist TiVo's present and future customers. Moreover, it would divert TiVo's industry-leading yet scarce engineering resources from moving ahead with more advanced and interoperable features.

TiVo's solutions, while compatible with cable industry home network progress, can neither guide nor impede the industry's own solutions. TiVo's domestic base is less than two percent of all cable subscribers. Hence the per-subscriber cost of reverse-engineering TiVo's products in order to assure full DLNA compatibility would be exorbitant on a per customer basis compared to similar costs for suppliers of set-top boxes to larger operators. Because the base is so small and so few TiVo consumers (if any) are likely to perceive any need to add a DLNA-specific interface, the actual number of consumers requesting such an interface would be extremely small compared to the expense of providing one.<sup>24</sup>

The smaller cable operators that use TiVo's boxes generally have the ability to obtain products from other suppliers. Hence it might not be economic for these operators to continue to source from TiVo if they must pay for modifications that will benefit few if any customers. Conversely, these operators can always provide a device from another supplier if their customers value DLNA compatibility over TiVo's current solution. Thus, TiVo is confident that it can work with its operator customers to avoid any potential consumer inconvenience. Moreover, as major operators begin to implement similar features based on STB output technology, industry trends should be evident both

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<sup>24</sup> For example, a cost of \$1 million for a feature desired by only 1,000 consumers would result in an out-of-scale per-consumer cost of \$1,000. Such an investment could not possibly be recovered, by TiVo at retail, or by a cable operator supplied by TiVo through attracting or maintaining subscribers.

to TiVo and to the systems that TiVo supplies. Adjustments can be made without requiring TiVo to turn back from the innovation that it has already achieved and implemented by virtue of its own investment.

**V. THERE IS RECENT AND SIGNIFICANT PRECEDENT FOR GRANTING WAIVER OF A RULE BASED ON PRIOR INVESTMENT IN FURTHERANCE OF THE OBJECTIVE OF THE RULE.**

Even with respect to the core obligation of cable operators to support competition through common reliance on CableCARDs, the Media Bureau has recognized prior operator investment toward its goals, and granted waivers based on such investment. In 2007, in granting a CableCARD waiver to Cablevision for the deployment of a system described as only potentially compatible with CableCARDs, the Bureau said:

Congress intended “that the Commission avoid actions which could have the effect of freezing or chilling the development of new technologies and services.” Accordingly, waivers of those regulations are granted when doing so “is necessary to assist the development or introduction of a new or improved” service, such as, for example, a nascent MVPD offering from a new competitor.<sup>25</sup>

The Bureau did not find that Cablevision was going to introduce any such new service. Under its general waiver authority, however, the Bureau noted that Cablevision then, like TiVo now, had acted well in advance of the operators’ deadline, and concluded it would be poor policy to strand investments made before any consensus solution had been outlined or required:

We also find it particularly persuasive that Cablevision began implementing its SmartCard-based approach in 2001, more than three years before the Commission clarified that the integration ban requires reliance on an identical security function. To require Cablevision to modify its devices that effectively further the goals of the integration ban

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<sup>25</sup> 2007 *Cablevision Waiver* at 5 (citations omitted).

would only serve to punish it for seeking to comply with the Commission's rules in a timely manner.<sup>26</sup>

The same considerations and policy should apply to the investment TiVo has made in achieving home network interoperability.

**VI. CLARIFICATION OF THE STATUS OF SECTION 76.640(b)(4)(iii) COULD MOOT THIS PETITION.**

This Petition is premised on the assumption that Section 76.640(b)(4)(iii) remains an active regulation because its text was released in the Commission's *Third R&O*,<sup>27</sup> rather than in the vacated Second R&O.<sup>28</sup> However, the Bureau in its Charter M&O and in its April, 2014 action on TiVo's previous petition did not resolve this question.<sup>29</sup> If the Bureau now determines that the requirement has been vacated, no compliance — and hence no waiver — would be necessary. Thus, TiVo notes alternatively that any such clarification (which TiVo does not seek and has opposed<sup>30</sup>) would moot TiVo's waiver petition.

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<sup>26</sup> *Id.* at 8.

<sup>27</sup> *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996*, Third Report and Order and Order on Reconsideration, CS Docket No. 97-80, FCC 10-181, 25 FCC Rcd 14657 (rel. Oct. 14, 2010) ("*Third R&O*").

<sup>28</sup> *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996*, Second Report and Order, CS Docket No. 97-80, FCC 05-76, 76 FR 40263 (rel. Mar. 17, 2005) ("*Second R&O*").

<sup>29</sup> *See Charter Communications, Inc. Files Request for Waiver of Section 76.1204(a)(1) With the Commission*, Memorandum Opinion & Order, CSR-8740-Z, MB Docket No. 12-328, DA 13-788, at 3 n.18 (rel. Apr. 18, 2013); *April 2014 Memorandum Opinion and Order*.

<sup>30</sup> *See, e.g., In the Matter of Charter Communications, Inc.'s Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules; Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, CSR-

\* \* \*

For the foregoing reasons, TiVo respectfully requests a waiver or clarification of the requirement that operators must include a home networking interface based on an open industry standard, as set forth in Section 76.640(b)(4)(iii) of the Commission's Rules.<sup>31</sup>

Respectfully submitted,

**TIVO INC.**

\_\_\_\_\_/s/\_\_\_\_\_  
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Dated: August 29, 2014

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8740-Z, MB Docket No. 12-328, CS Docket No. 97-80, Reply Comments of TiVo, Inc. at 4-5 (Jun. 10, 2013).

<sup>31</sup> If the Commission were to deny this request for waiver or clarification, TiVo respectfully requests an additional nine months to comply with the rule. Given that the DLNA CVP-2 specifications was only recently published, and given the engineering and other resources that TiVo has invested in developing its home networking technology, an extension of time to comply with Section 76.640(b)(4)(iii) will be needed if the Commission chooses not to grant this request for waiver.