

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

In the Matter of)	
)	
Video Device Competition)	MB Docket No. 10-91
)	
Implementation of Section 304 of the Telecommunications Act of 1996)	
)	
Commercial Availability of Navigation Devices)	CS Docket No. 97-80
)	
Compatibility Between Cable Systems and Consumer Electronics Equipment)	PP Docket No. 00-67
)	



COMMENTS

I. Introduction.

The American Cable Association (“ACA”) files these Comments in response to the Commission’s Notice of Inquiry seeking comment “on specific steps [the Commission] can take to unleash competition in the retail market for smart, set-top video devices (‘smart video devices’) that are compatible with all multichannel video programming distributor (‘MVPD’) services.”¹

ACA fully supports innovation in the marketplace for navigation devices, and has no objection to finding a solution that would promote competition in both the wholesale and

¹ *In the Matter of Video Device Competition Implementation of Section 304 of the Telecommunications Act of 1996*, Notice of Inquiry, MB Docket No. 10-91, FCC 10-60, at 1, ¶ 1 (rel. Apr. 21, 2010) (“*Video Device Innovation NOI*”).

retail markets for navigation devices or that would lower costs for multichannel video programming distributors (“MVPDs”). But ACA urges the Commission to move cautiously as it seeks to find a successor to the CableCARD, and ensure that any new regulations do not disproportionately burden smaller operators.

American Cable Association. ACA represents nearly 900 independent cable companies that serve more than 7.6 million video subscribers, primarily in smaller markets and rural areas. ACA member systems are located in all 50 states, and in nearly every congressional district. The companies range from family-run cable businesses serving a single town to multiple system operators with small systems in small markets. More than half of ACA’s members serve fewer than 2,000 subscribers. All ACA members face the challenges of building, operating, and upgrading broadband networks in lower density markets.

II. The Commission must ensure that any new regulations do not disproportionately burden smaller operators.

ACA fully supports innovation in the marketplace for navigation devices, and has no objection to finding a solution that would promote competition in both the wholesale and retail markets for navigation devices or that would lower costs for MVPDs. At the same time, past experience has shown that regulatory obligations often disproportionately impact smaller operators. ACA urges the Commission to move cautiously as it seeks a successor to the CableCARD, and ensure that any new regulations do not disproportionately burden smaller operators.

Integration Ban. The Commission’s separable security requirement, or so-called “Integration Ban,” has been in effect for over three years.² Over those three years, the cable industry – including small and medium-sized cable operators represented by ACA – has spent more than one billion dollars purchasing CableCARD-compliant set-top boxes and providing support for retail CableCARD devices.³ Unfortunately, as the Commission noted in the *Video Device Innovation NOI*, the CableCARD regime has failed to result in a competitive retail marketplace for navigation devices.⁴ As a result, the Commission now seeks to find a successor to the CableCARD.⁵ As part of that process, the Commission seeks comment on an “AllVid” concept, which would work across all MVPD platforms.⁶

“AllVid” Concept. As envisioned by the Commission, the “AllVid” concept involves an adapter that communicates with an MVPD service which would perform only the tuning and security decryption functions specific to a particular MVPD.⁷ A “smart video device” would then connect to the adapter through an open standard, and would perform navigation functions, including the presentation of programming guides and search functionality.⁸

² 47 C.F.R. § 76.1402(a)(1).

³ See Todd Spangler, “Operators’ CableCard Box Tally Tops 21 Million” (Jun. 23, 2010), *available at* http://www.multichannel.com/article/454132-Operators_CableCard_Box_Tally_Tops_21_Million.php (last visited July 13, 2010) (“According to [National Cable & Telecommunications Association] estimates, the industry has now spent more than \$1 billion complying with the integrated set-top ban, which requires separable security functions in the form of CableCards in operator-supplied equipment.”).

⁴ *Video Device Innovation NOI* at 4, ¶ 10 (“Unfortunately, the Commission’s efforts to date have not led to a robustly competitive retail market for navigation devices that connect to subscription video services.”).

⁵ *Video Device Innovation NOI* at 2, ¶ 3 (“The Commission envisions that the proposal adopted in this proceeding would be a successor technology to CableCARD.”).

⁶ *Video Device Innovation NOI* at 7-8, ¶ 17.

⁷ *Video Device Innovation NOI* at 1-2, ¶ 2.

⁸ *Video Device Innovation NOI* at 2, ¶ 2.

The *Video Device Innovation NOI* seeks comment on standards for the “AllVid” adapter’s physical connection, communication protocol, authentication, service discovery, and content encoding, as well as a list of functions that would be necessary to implement the “AllVid” concept.⁹ While ACA has no view on the specifics of the “AllVid” concept at this time, ACA is concerned that the “AllVid” concept may require MVPDs to make substantive – and costly – changes to their equipment and operations.

According to the *Video Device Innovation NOI*, any new “AllVid” set-back device may require new physical connections, communication protocols, authentication requirements, and content encoding.¹⁰ For example, operators may be required to ensure that hardware and software is compatible with Internet Protocol (“IP”) should that become the standard communications protocol for the “AllVid” adapter. Any new requirements could therefore have large per-headend or per-customer costs, which will be disproportionately higher for smaller operators.

ACA has emphasized the disparate impact regulations have on smaller operators, both economically and administratively.¹¹ This is particularly true for ACA’s smaller members, many of whom are attempting to upgrade their digital services in high-cost, lower-income markets. Providing service in rural areas and smaller markets presents unique challenges not faced by larger MSOs. Additional regulatory obligations and costs will force operators to divert valuable capital and resources away from the deployment of advanced services, including broadband, in rural and smaller markets.

⁹ *Video Device Innovation NOI* at 9-10, ¶ 24.

¹⁰ *Video Device Innovation NOI* at 10, ¶ 24.

¹¹ See, e.g., *In the Matter of National Cable & Telecommunications Association’s Request for Waiver of 47 CFR § 76.1204(a)(1)*, CSR 7056-Z, CS Docket No. 97-80, Comments of the American Cable Association at 5 (filed Nov. 30, 2006) (noting that the Integration Ban would disproportionately affect ACA’s members).

Moreover, the Commission should take into account the experience of the Commission's separable security rules before imposing another government regulatory mandate on smaller operators. As noted above, ACA's members have spent valuable capital complying with a regulatory mandate, the CableCARD, which has led to a Motorola/Cisco duopoly in the set-top box market, as well as higher costs for both operators and consumers. While ACA is concerned about the current set-top box duopoly – and would be supportive of regulations that bring competition to the wholesale and retail markets for navigation devices – any regulations must not result in higher costs for operators.

ACA urges the Commission to move cautiously as it seeks to find a successor to the CableCARD, and ensure that any new regulations do not disproportionately burden smaller operators.

III. Conclusion.

ACA urges the Commission to move cautiously as it seeks to find a successor to the CableCARD, and ensure that any new regulations do not disproportionately burden smaller operators.

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