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January 13, 2016

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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte*, CS Docket No. 97-80, MB Docket No. 15-64

Dear Ms. Dortch:

This is to inform you that on January 11, 2016, Matthew Zinn, Senior Vice President, General Counsel, Secretary & Chief Privacy Officer, and Dr. Joseph Weber, Chief Technical Officer for the Service Provider Business Unit of TiVo Inc. ("TiVo") and the undersigned (collectively, the "TiVo Representatives") spoke via conference call with the Commission staff listed in the attachment to address questions from the staff regarding how competitive navigation devices operate today and could operate in the future in a post-CableCARD competitive environment.

The TiVo Representatives made clear that competitive device providers are not and should not have to be bound to programming contracts entered into by MVPDs to which they were not party. As the Commission is aware, the terms of such programming contracts are confidential and it makes no sense for competitive device providers to have to adhere to licensing terms they have no way of knowing and that may disadvantage users of competitive devices. While NCTA and others have attempted to sensationalize the fact that competitive devices are not bound by agreements entered into by MVPDs, the TiVo representatives emphasized that TiVo has never been bound by such agreements — even though consumers have been using TiVo devices for over a decade — without resulting in any of the parade of horrors alleged by NCTA.

In this regard, the TiVo Representatives noted that TiVo complies with the DFAST license that is part of the CableCARD regime, which requires that competitive devices protect the security of and do not impair the delivery of MVPD services. A future competitive navigation device solution could incorporate a license with restrictions similar to those contained in the DFAST license along with encoding rules. Such a solution would give MVPDs and programmers the ability to employ different business models for different content while protecting consumer rights and avoiding a scenario in which providers of competitive devices have to comply with a plethora of restrictions in agreements to which they are not parties.

The TiVo Representatives stressed that any DFAST-like license must allow competitive navigation devices to use competitive UIs, search functionality, etc. and must protect consumer fair use rights. The TiVo Representatives explained that the “service” provided by MVPDs in this context is, and has always been, the delivery of video programming and not every feature and function that the MVPD claims is part of its service, and noted that the definition of “cable service” supports this position.

The TiVo Representatives also responded to technical questions regarding system-specific tasks and the ability of competitive devices to work across all MVPD networks, as well as how TiVo devices pass through EAS signals today. Finally, the TiVo Representatives explained that TiVo is subject today to state privacy laws and to enforcement by the FTC and/or state regulators for any failures to abide by its comprehensive privacy policy.

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink that reads "T. Devendra Kumar". The signature is written in a cursive style with a horizontal line underlining the name.

Devendra T. Kumar
Attorney for TiVo Inc.

Commission Staff Participating in Jan. 11, 2016 Conference Call

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