February 9, 2016

__Via Electronic Filing__

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Proposed NPRM to Unlock the Set-Top Box: Creating Choice & Innovation, MB Dkt. No. 15-64

Dear Ms. Dortch:

On February 8, 2016, members of the Consumer Video Choice Coalition[1] (the "Coalition") met with Commissioner Pai, Matt Berry, and Bernie Archbold concerning the above-referenced proposed NPRM to unlock the set-top box market. In addition to the undersigned, other Coalition members in attendance included Robert Schwartz on behalf of Hauppauge, Daniel O'Connor and John Howes from CCIA, John Bergmayer and Adam Goldberg for Public Knowledge, and Johanna Shelton and Megan Stull from Google Inc.

The Coalition expressed support for the proposed NPRM and the Commission's plan to bring competition and innovation to a navigation device market that is almost entirely monopolized by pay-TV providers. The group encouraged the Commission to adopt "a framework for providing innovators, device manufacturers and app developers the information they need to develop new technologies"[2] and to develop a successor to the CableCARD that is

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1 The Coalition is comprised of Ceton Corp., Common Cause, Computer & Communications Industry Association, Consumer Action, Google Inc., Hauppauge, INCOMPAS, New America's Open Technology Institute, Public Knowledge, Silicondust USA, Inc., VIZIO, and Writers Guild of America, West.

2 *See* FCC Chairman Proposal to Unlock the Set-Top Box: Creating Choice & Innovation, *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0127/DOC-

based on a "published, transparent format that conforms to specifications set by an independent, open standards body."[3] By moving forward to unlock the set-top box, the Commission will be fulfilling its mandate in Section 629 of the Act to ensure that consumers have access to competitive devices that are interoperable with MVPD networks.

The proposed NPRM opens the door to consumers finally realizing the full benefits Congress intended to afford them in Section 629. For example, consumers will be able to choose to purchase their own chosen navigation devices from any number of retail outlets at costs lower than the $232 per household average annual rental price offered by MVPDs. Moreover, consumers will have flexibility to choose user interfaces that best suit their needs, and consumers will be able to more easily access the over-the-top content of their choice without having to switch between program guides or devices. Consumers also will have more opportunities to discover new content. For instance, independent programmers that have been unable to gain access to MVPD platforms could to gain viewership by offering programming directly to consumers as an over-the-top product on equal footing with traditional cable programming.[4] As a result, consumers will have a better viewing experience.

As recently demonstrated by the Coalition,[5] the competitive navigation device solution is technically capable of offering consumers linear content from their MVPD of choice, along with their over-the-top content of choice, in a seamless manner with third-party navigation devices. In doing so, the Coalition showed that the competitive navigation device solution does not alter MVPD linear content or advertising. Furthermore, the competitive navigation device solution allows consumers to access fully the programming offerings to which they subscribe from their MVPD. All of the functionality consumers have come to expect from their linear video service—such as channel placement, emergency alerts, closed-captioning, and parental

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337449A1.pdf.

3 *Id.*

4 As long as large incumbent MVPDs control the development and distribution of navigation devices, they have the incentive and abilities to deter consumers from accessing independent content that competes with MVPD service offerings over set-top boxes and televisions. However, with a robust, competitive marketplace for video navigation devices where consumers can easily purchase and install devices, manufacturers would be able to produce devices that can access over-the-top services, apps, and content alongside content received as part of an MVPD subscription. History shows that when consumers have options for consumer electronics that they can attach to the networks they use, innovation and investment flourishes, and consumers greatly benefit.

5 *See* Ex Parte Letter of INCOMPAS, Dec. 14, 2015, MB Docket No. 15-64.

controls—remain available. But, with the competitive navigation device solution, customers have options to choose devices to enhance their video experience based on their needs and tastes.

Consumers are demanding lower cost video options. They also want the freedom to access both new streaming over-the-top content and linear content on their big screen televisions. That is why the Commission's proposal has been so enthusiastically embraced. Indeed, we noted the overwhelming positive press and consumer response to the proposed NPRM, including in the attached editorial opinions by the New York Times, USA Today, and Los Angeles Times, as well as an op-ed from The Times-Picayune.

The Coalition has proven that competition holds the technology solution for ending the era of forced set-top box leasing from large incumbent MVPDs. The Commission finally has within its grasp the ability to truly implement Section 629 as intended so that consumers have competitive options for navigation devices. The Coalition supports adoption of the instant NPRM to usher in an era where consumers have options to use competitive navigation devices once the CableCARD solution is no longer available. Accordingly, the Coalition requested that Commissioner Pai vote to approve the NPRM.

Respectfully submitted,

/s/Angie Kronenberg

Angie Kronenberg
Chief Advocate & General Counsel
INCOMPAS

cc: Commissioner Pai
Matt Berry
Bernie Archbold

Attachments

The New York Times http://nyti.ms/1nSiO4m

The Opinion Pages | EDITORIAL

The F.C.C. Gets Ready to Unlock the Cable Box

By THE EDITORIAL BOARD FEB. 8, 2016

Every year, American cable-TV subscribers spend $231 on average to rent cable boxes that they should be able to buy outright, potentially saving them hundreds of dollars over several years. Consumers could soon have that option under an excellent proposal by the chairman of the Federal Communications Commission.

Even as computers, wireless phones and other electronic devices have become cheaper, the cost of renting cable boxes has been increasing. That's because cable companies have made it incredibly hard for customers to buy and use their own machines. Rental fees bring in nearly $20 billion in annual revenue for cable, satellite and telephone companies, according to an analysis by two Democratic senators, Edward Markey of Massachusetts and Richard Blumenthal of Connecticut.

Last month, the chairman of the F.C.C., Tom Wheeler, proposed new regulations based on a provision of a 1996 telecommunications law that requires cable companies to accommodate competing devices. The commission tried to do this before, but the solution presented to consumers has been impossibly cumbersome. It relies on electronic cards that consumers get from their cable companies and insert into boxes they buy from companies like TiVo. Cable companies often charge a monthly fee for the use of the cards, and getting and using them can be a hassle. It's no surprise that 99 percent of customers still rent cable boxes.

Mr. Wheeler wants the cable businesses like Comcast and Time Warner Cable and technology companies like Google and Amazon to jointly develop technical standards for cable devices. That would allow consumers to watch cable television on any device that meets those standards. Some manufacturers could build televisions that already incorporate a cable box. Or companies like Apple could refine software that will let people watch all cable TV on their phones and computers. Much of the technology needed to do this exists, and companies like Comcast and HBO are already using it to make some TV shows and movies available online.

Regardless of what device people use, it would have to comply with the privacy and copyright protections that apply currently to cable boxes. This approach should make it easier for consumers to choose how they watch television, provided that the telecom and technology companies, which have had a testy relationship, can work together.

Not surprisingly, the telecommunications industry is opposing Mr. Wheeler, arguing that his proposal amounts to needless government meddling that will stifle innovation. These are self-serving arguments by an industry that is, understandably, afraid of losing billions in revenue. It is important to remember that Mr. Wheeler's proposal doesn't require consumers to make any changes. Anybody who is happy renting a cable box, can keep doing so.

If the industry had its way, we would still be renting phones from the old Ma Bell. Allowing consumers to buy their own phones was one of the first steps the F.C.C. took in promoting new telecommunications technologies. Requiring cable-TV systems to make room for competing devices should similarly lead to a boom in new types of services and technologies.

Consider this: The monthly cost of renting cable boxes has gone up 185 percent since 1994, according to data collected by Consumer Federation of America and Public Knowledge. By comparison, the Consumer Price Index, which measures overall inflation in the economy, was up about 60 percent in that time.

The F.C.C. is expected to vote on Feb. 18 to start taking public comments on Mr. Wheeler's proposal. A final rule could be adopted by the end of the year. The F.C.C.

should move as quickly as possible. Americans have waited long enough for more and better choices than the cable box.

A new proposal from the F.C.C. would make easier for consumers to choose how they watch television.

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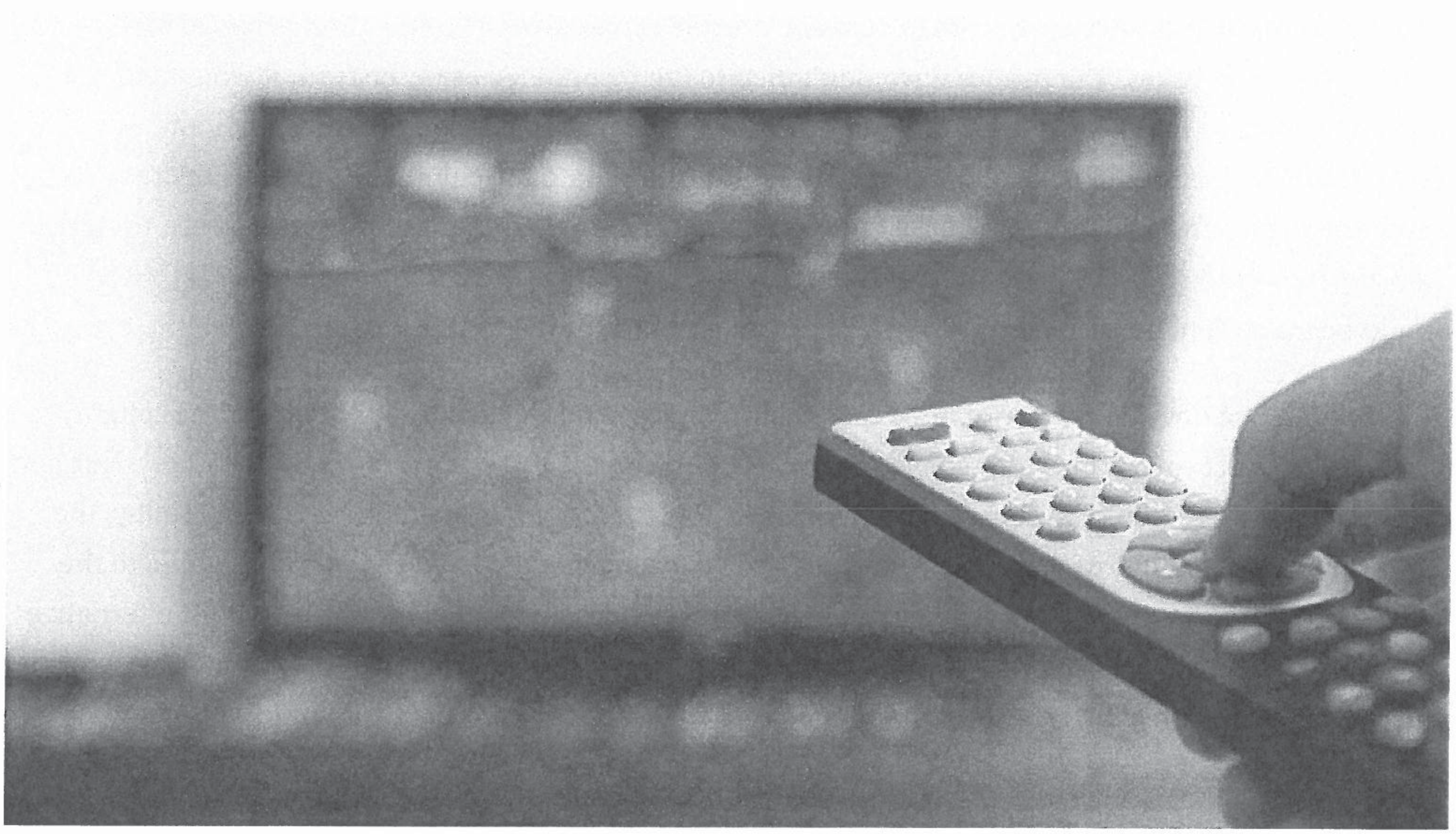
A version of this editorial appears in print on February 8, 2016, on page A24 of the New York edition with the headline: Unlocking the Cable Box.

Opinion / Editorial

Editorial Thinking outside the cable box



Set-top box rentals generate about $19.5 billion a year for cable and satellite TV companies. (TNS)

By The Times Editorial Board · Contact Reporter

JANUARY 28, 2016, 5:00 AM

Cable TV customers are fond of complaining about their ever-rising monthly bills, which now average almost $100. Although the main factor has been the growing sums of cash the cable operators have to fork over to NBC, ESPN and other networks for their programming, the operators themselves are demanding higher fees from consumers for the converter boxes that unscramble, record and display shows. According to the Federal Communications Commission, Americans pay an average of $231 a year renting pay-TV set-top boxes, with cable box fees almost tripling since the mid-1990s.

Worse, consumers have little choice when it comes to cable converter boxes. As part of a telecommunications-law overhaul in 1996, Congress required the cable industry to open their systems to set-tops made by competitors. That presented technical challenges, however, that cable operators have been less than enthusiastic about solving. And even when a solution was found, the industry continued to act as a gatekeeper over devices and technologies. As a result, with limited exceptions, consumers have been stuck with whatever their local cable operator offered, which has slowed innovation in program guides, digital recorders, the integration of online content and other key aspects of TV service.

This week, Federal Communications Commission Chairman Tom Wheeler unveiled yet another effort to create a secure way for device makers to connect to cable services and provide alternatives to the industry's set-top boxes. The proposal wouldn't dictate the technology used; instead, it would require cable operators to comply with a set of open standards for how information is transmitted and protected. The goal would be to allow companies to fully integrate the channels that consumers subscribe to on cable with other forms of entertainment on a single Internet-connected screen or device. Consumers would still have the option of the local cable operator's box, but the difference is that it would be an option, not a prerequisite to getting cable programming.

If it worked, one obvious result would be that cable operators would face competition for the roughly $7.50 they collect each month per converter box, which should drive costs down for consumers. But just as important, there would be competition over how cable services are presented on screen. Today, the local cable operator controls the "user interface" for its programming, from the program guide to the playback controls on its DVR. With an open market, other companies would be able to offer alternative user interfaces. A good example is what Fanhattan did with its interface for Time Warner Cable, which offered viewers compelling new ways to browse for shows in addition to the usual time-and-channel grid.

The FCC is expected to vote next month whether to start a formal rulemaking on Wheeler's proposal. And not surprisingly, the cable industry and its partners in Hollywood are resisting Wheeler's proposal. Device makers would be able to emphasize some channels over others, which could hurt lesser-known networks, they argue, and consumers could be showered with intrusive ads. Just be patient, they say, because cable operators and TV networks are gradually rolling out more options for consumers.

The critics are right about one thing: The cable industry is, slowly but surely, giving customers the ability to watch TV on more devices without the need for a pricey set-top. In fact, a handful of cable executives have said they would like to be rid of set-tops once and for all. They have good reasons to do so: the boxes cost money to purchase and maintain, and the rapid advance of computing technology can make even a two-year-old box seem slow and outdated.

Nevertheless, Congress decided almost 20 years ago that cable operators shouldn't be the ones controlling the evolution of set-top boxes. That market should be competitive. And rather than trusting cable operators to promote indie networks, limit consumers' exposure to advertising and protect their privacy, it's far better to let consumers decide such things for themselves in an open, competitive market.

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End the cable box rip-off: Our view

The Editorial Board, *2:57 p.m. EDT September 14, 2015*

You're paying more than $230 a year to rent boxes because the industry likes it that way.

(Photo: Pablo Martinez Monsivais, AP)

Once, all you needed to get every available TV channel was an antenna. Then came cable, and except for premium channels, all you usually had to do was run a wire from the set to the wall. Over time, though, cable companies digitized their signals, which meant you had to have a set-top box to watch just about anything.

That turns out to have been a lucrative development for the cable industry. In addition to charging for channels, companies now lease set-top boxes to an estimated 99% of their customers (http://www.markey.senate.gov/news/press-releases/markey-blumenthal-decry-lack-of-choice-competition-in-pay-tv-video-box-marketplace) for an average of more than $230 a year per household. Total revenue to the industry: almost $20 billion a year, according to Sens. Edward Markey, D-Mass., and Richard Blumenthal, D-Conn., who say consumers deserve better.

USA TODAY

Don't hit rewind on TV revolution: Opposing view

(http://www.usatoday.com/story/opinion/2015/09/14/cable-set-top-boxes-tv-products-editorials-debates/72265478/)

The state of set-top boxes is almost as onerous and anti-competitive as it was when the only way you could get a telephone was to rent it from "Ma Bell" — the AT&T telephone monopoly that forbade customers from connecting anything but its devices to telephone lines. Then came the Federal Communications Commission's 1968 Carterfone ruling (https://www.fcc.gov/article/fcc-15-24a1), which eventually let consumers buy their own phones and triggered an explosion of innovation.

That's what the FCC thought it was doing in 1998 when it responded to a congressional mandate for better set-top boxes by requiring cable operators to make available "cable cards" consumers could install in third-party boxes they bought themselves. While that can work, some cable companies fought it by charging monthly rental fees for the cards and making installation grueling — "waterboarding meets the DMV (http://www.dslreports.com/shownews/Cable-Industry-Shucks-Guess-Nobody-Wants-CableCARDs-104768)," complained one consumer website.

Nor do companies do much to advertise the option, a key reason why only 1% of customers buy their own boxes. The industry "totally undermined and failed to support" the cable-card experiment, says John Bergmayer, a senior staff attorney with Public Knowledge, which has been battling the cable industry to open the market for better boxes.

The FCC has an opportunity to open the way for better devices, and it should. The agency is considering competing recommendations from a working group.

Ideally, you should be able to buy a cutting-edge set-top box for a reasonable price that would run rings around what you can lease from your cable provider. It would give you not just the cable channels you pay for, but also any other services you subscribe to (Netflix, Amazon, Hulu, etc.), plus Internet content, all in the same box (or built into your TV), and in an easily searchable grid not controlled by the cable provider.

When you look for a movie, for example, you could find it in your cable on a demand list (for an extra fee), but also from another service you've already paid, for no more money. Such a device might also consume far less electricity than today's boxes, which run even when they're turned off and are second only to air conditioners as some homes' biggest energy drain.

To make this possible, the FCC would have to require the cable industry to provide a feed that would work on all sorts of third-party boxes. Unsurprisingly, the industry says that's too complicated and too onerous. The real reason seems to be that it would threaten cable providers' gravy train of rental income and their control of how their customers watch TV — reasons the FCC would do well to look past as it seeks the best outcome for consumers.

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The New York Times http://nyti.ms/1LNbwbZ

The Opinion Pages | EDITORIAL

Let Consumers Use Better, Cheaper Cable Boxes

By THE EDITORIAL BOARD AUG. 31, 2015

Of all the electronic devices in American homes, the cable box is one of the hardest to use and probably one of the most expensive. A recent survey by two Democratic senators found that consumers spend on average about $231 a year to rent them.

People should be able to buy cable boxes from any manufacturer and connect them to their cable line or satellite dish as long as they meet basic technical standards. That could save Americans hundreds of dollars; it's a one-time outlay, and the cost of the technology in set-top boxes, as with other electronics, is falling. Some companies sell them for less than $200.

The virtual monopoly that cable companies have over set-top boxes is reminiscent of the way AT&T used to require customers to rent phones from the company and prohibited them from using other devices. That ended after the Federal Communications Commission forced the company to let people connect telephones, radios and other equipment that were not made by AT&T in a 1968 decision known as Carterfone.

That pivotal decision, in turn, saved consumers money and boosted innovation by opening the door for devices like dial-up modems that people would later use to connect to the Internet.

Regrettably, regulators have not had the same success prying open the cable network. In 1996, Congress required cable companies to accommodate competing devices, which allowed companies like TiVo to sell set-top boxes directly to consumers. But most consumers have chosen not to buy these machines, which need an electronic card to verify your cable-TV subscription. Cable companies issue these cards, but often for a monthly fee, and experts say getting and using the cards can be a big hassle.

The result is that most Americans rent set-top boxes, paying a total of nearly $20 billion a year to cable and satellite companies like Comcast and DirecTV, according to data collected by the two Democratic senators, Edward Markey of Massachusetts and Richard Blumenthal of Connecticut.

But the cable-box boondoggle could be coming to an end. The F.C.C. is expected to consider new regulations based on recommendations provided to the commission on Friday by a panel of experts from telecommunications companies, public interest groups and device makers.

Connecting a set-top box to a cable line or satellite dish should be as easy as activating a new cellphone on a wireless network. Consumers should have a choice of devices, and they should be able to buy the boxes outright or pay for them through their monthly plan. And using a set-top box should not require an electronic card. Surely, cable and tech companies can come up with software that can verify that set-top boxes are being used by paying subscribers.

In addition to saving people money, reducing cable companies' control over set-top boxes could improve TV watching. Some television makers might build set-top boxes into their machine so consumers would not have to buy two devices. Tech companies like Apple and Google could create set-top boxes with easier-to-use menus. Device makers might also offer consumers the ability to simultaneously search for entertainment on cable and Internet-based services like Netflix and Hulu.

Cable and satellite companies will surely resist change or try to water down the new F.C.C. regulations. After all, they stand to lose billions in rental fees. But it is in their long-term interest to give consumers more choices. A growing number of Americans are giving up cable-TV because it costs too much. Consumers might be more inclined to pay for cable if the industry stopped trying to nickel-and-dime them.

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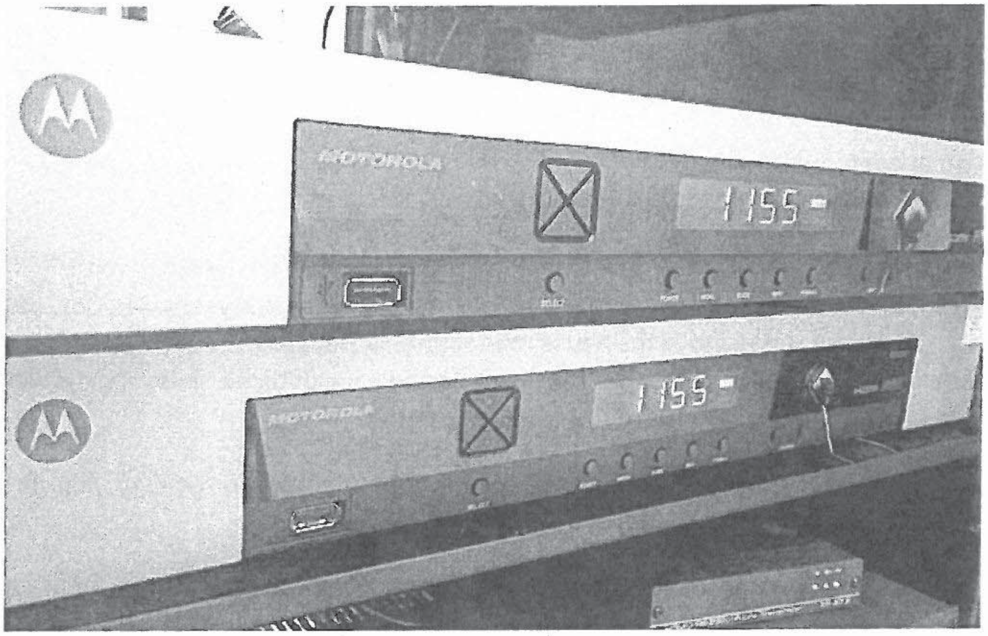
A version of this editorial appears in print on August 31, 2015, on page A14 of the New York edition with the headline: The Cable-Box Boondoggle.

Three cheers to FCC for wanting to bust cable box monopoly: JR Ball



The FCC wants to give cable and satellite customers a choice when it comes to set-top decoding boxes. *(JR Ball)*

By **JR Ball, NOLA.com | The Times-Picayune**
Email the author | **Follow on Twitter**
on February 02, 2016 at 12:13 PM, updated February 02, 2016 at 2:44 PM

Rarely do I come down on the side of government in disputes with private business. The move by Tom Wheeler, head of the Federal Communications Commission, to give all of us more choices when it comes to buying or renting the boxes necessary to watch cable or satellite television is one of those rare instances.

Wheeler says it's ridiculous — and overly expensive — that most customers are forced into paying monthly fees to rent decoding boxes from their cable or satellite company in order to watch programming. That's why the FCC last week announced a proposal that, in effect, will break the near-monopoly enjoyed by cable and satellite companies, making it possible for consumers to purchase or rent decoding boxes from third-party vendors.

"Lack of competition has meant few choices and high prices for consumers," Wheeler said in a statement. In a post on the technology news site Recode, he wrote, "It's time to unlock the set-top box market — let's let innovators create, and then let the consumers choose."

As you might expect, technology companies, like Google, Apple and Amazon, cheered the proposal, which will be voted on Feb. 19. The cable industry, perfectly happy with a very profitable near-monopoly, is not so thrilled.

Which makes sense given the typical American household pays $231 per year renting decoding boxes from cable companies, according to a study last year by the U.S. Senate. Brace yourself, but that adds up to a $19.5 billion revenue stream for cable companies. Think about it: Almost $20 billion a year rolls into the coffers of Cox Communications and other cable companies fo doing nothing more than *renting* boxes that make it possible to view paid programming and supposedly *free* high-definition TV.

In my case, I shell out $17 per month (it will be $9 higher once the monthly fee for the new mandatory boxes kick in next year) fc boxes that make it possible for me to actually watch $160 worth of monthly sports and entertainment stuff.

As a Cox customer for 19-plus years, I've ponied up some $4,000 in cable box rental fees. Seriously, how many cable boxes could a person buy for that kind of money? A quick Google search suggests that kind of money could get you 10 top-of-the-line TiVo Premiere Elites, or 28 entry-level TiVo Premiere HD DVRs.

Cox, in a statement, says customers prefer "leasing" because doing so means they don't have "to worry about the cost to replac equipment or things like warranty coverage to protect against equipment they purchase failing." The company statement goes on to say, "Equipment and software upgrades are par for the course when a customer leases from us."

That might all well be true. What's also true is other customers would prefer a choice — one that really doesn't exist right now, though, to be fair, there is some Cox integration with TiVo DVRs.

I quietly seethed about this form of must-rent TV for more than a decade, staying silent largely because I'm addicted to DVR viewing (it's more time efficient) and there really was no legitimate alternative. My breaking point came this year when Cox, afte a technology upgrade, made renting a set-top box for every television in the house mandatory. No longer were secondary TVs a plug-and-play situation; now it's a plug-rent-plug-and-play situation, and after the grace period each of those "lease" boxes will cost an additional $3 a month.

Cox says I can avoid renting the new boxes by either 1) junking the televisions in those rooms and watching on an iPad, iPhone o Android device, or 2) purchase new Internet capable televisions and stream programs via a Cox app.

If the FCC has its way, I — and others — will have multiple other options to quench our thirst for the mass consumption of brain-numbing television and video viewing. Frankly, I'm guessing the good folks at Apple will find a fabulous way for me to not only DVR programs but also watch cable, Netflix, Hulu and YouTube without having to push 64 buttons over three different remote controls.

I get why companies like Cox, who I mention only because it's the dominant cable company in the Baton Rouge and New Orleans markets, want to protect this lucrative revenue stream. Younger folks are increasingly opting for a cable-free lifestyle and networks as well as local stations are squeezing cable companies harder on retransmission fees. No doubt, profit margins for Cox are declining.

That, however, is a problem for the cable companies to solve. My concern is why, according to the FCC, has the cost of set-top boxes increased 185 percent since I became a cable subscriber while the cost of computers, televisions and mobile phones dropped by 90 percent?

Wheeler rightly compares this proposal to one made by the FCC more than 20 years ago, allowing other companies to provide telephones that would work with the Bell telephone signal. Remarkably, once the walls of the monopoly were broken the price of telephones fell. As important, competition led to advances that made the phones better.

Given the warp speed of technology innovation over the past two decades, this move by the FCC is long overdue.

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JR Ball *is a columnist with NOLA.com | The Times-Picayune in Baton Rouge. Email him at jrball@nola.com. You can also keep up with his local updates on Twitter (**@jrball35**), Facebook (**jrball**) and Google+ (**+JRBall**).*