January 19, 2005

VIA ECFS

Chairman Michael Powell
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: CS Docket 97-80

Dear Chairman Powell

Consumers benefit from competition. When Congress made the decision to open the cable set-top box market and directed the Commission to set the rules, it wisely gave consumers choice and ensured innovation.

Changing these rules—either by changing the effective date or ending them entirely—will not serve consumers.

The attached document "CableCARD vs. Security Integration: Cable Hasn't Made the Case to Change the Rules" outlines our organizations' collective concerns with reopening this docket either to postpone or recind the rules that ensure a common-sense consumer market for cable navigation devices.

Consumers Union, Consumer Federation of America and Public Knowledge urge the Commission not to make any changes to the July 1, 2006 integration deadline.

/s/
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Policy Advocate, Consumers Union

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Research Director, Consumer Federation of America

Mike Godwin
Legal Director, Public Knowledge

cc: Commissioner Kathleen Abernathy
Commissioner Kevin Martin
Commissioner Michael Copps
Commissioner Jonathan Adelstein
Jonathan Cody
Jordan Goldstein
Stacy Robinson Fuller
Johanna Mikes Shelton
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CableCARD vs. Security Integration

CABLE HASN'T MADE THE CASE TO CHANGE THE RULES

Consumers Need Competition and Innovation

Back in the day, consumers had to lease their telephones from the phone company. AT&T got rich, while consumers had to pay a lot of money for an ugly black rotary phone that did only one thing. Now it's different. The phones that used to cost $96 per year to rent now can be purchased for $18 and they do lots more than just dial, like redial automatically, store numbers, switch to speaker phone, or mute, etc. That's because public policy ended AT&T's monopoly, preventing it from using special advantages to dominate and control the devices that used the network. The resulting competition unleashed both declining prices and rapid innovation—things like dial-up Internet, and fax machines.

A similar situation exists today with cable set-top boxes, the technology that translates digital cable signals to TVs. Consumers can't go to an electronics retailer and buy this technology, but rather must rent the boxes from the cable company at a significant cost each month – about $5-$10 each month for each box. In the Telecom Act of 1996 Congress recognized this problem, and directed the FCC to set rules in place to open up this technology to consumers.

The Right Rule Is In Place

In 1998, the FCC set rules in place to do so. Together, the cable and electronics industries responded with CableCARD, which helps prevent signal-theft of digital cable channels. Unfortunately, devices using CableCARD technology—and even the CARDs themselves—are high-priced and remain unavailable to many cable consumers. Only more competition can bring down prices. Unfortunately, the cable industry is trying to halt implementation of these rules, which are set to take effect July 1, 2006. This would limit competition, with only consumers buying the highest-end TVs able to take advantage of this technology. The right rule is in place. **The FCC should reject the cable industry's claims and open up this technology to *all* consumers.**

Level Playing Fields Mean New Features, Lower Prices

Today, consumers wanting digital cable have limited choices: to buy a new TV that has a CableCARD slot, or to rent an integrated box—without CableCARD—from the cable company for around $100/year. Consumers would benefit if the FCC leaves the rule in place, as this would ensure "more choice through competition" that would lead to greater demand for the CableCARD technology—demand that manufacturers could meet with lower prices and more consumer choice.

Already Had 102 Months to Comply

The 1998 rule gave cable companies seven years to comply with the equal competition rules. Cable companies later won an 18 month extension. Now cable is back again asking for another delay—or to get rid of the rules entirely. But their case makes no sense and would only lead to further consumer harm in a monopolistic industry. Currently, there is not enough competition—cable's boxes can do more than 3rd party boxes because they are not limited to the CableCARD's features. With little demand and few companies making CableCARDs, costs and prices are higher than they would in a market when every device relied on them.

The only way to make CableCARDs better in the future is to make sure that cable companies stick to the original plan and start living under the same rules other manufacturers use.

Innovation, Competition Threatened

Until cable companies are obligated to use CableCARDs themselves, they have no incentive to make sure that those devices work on their networks. If a 3rd-party CableCARD device offers new innovation or lower prices, and competes with a cable company's offering, a cable operator could steer customers away from competing devices toward their own.

Let the rule stand

This rule has been made, challenged, and delayed. The FCC should let the existing rule stand. Cable hasn't made the case that consumers benefit from exclusive platforms, limited competition and unequal playing fields. Instead, consumers benefit when many companies have the chance to compete and innovate.