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November 20, 2006

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Notice – CS Docket 97-80

Dear Ms. Dortch:

Attached please find a copy of the letter sent today to Chairman Martin and Commissioners Copps, Adelstein, Tate, and McDowell from Gary Shapiro, President and CEO of the Consumer Electronics Association. Kindly file this letter in the above-captioned docket.

Please do not hesitate to contact me should you have any questions.

Respectfully submitted,

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November 20, 2006

The Honorable Carlos M. Gutierrez
Office of the Secretary
U.S. Department of Commerce
14th & Constitution Ave. N.W.
Washington, DC 20230

The Honorable John M.R. Kneuer
Acting Assistant Secretary for
Communications and Information
National Telecommunications and
Information Administration
1401 Constitution Ave., N.W.
Washington, DC 20230

The Honorable Kevin J. Martin
The Honorable Michael J. Copps
The Honorable Jonathan S. Adelstein
The Honorable Deborah Taylor Tate
The Honorable Robert M. McDowell
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Dear Secretary Gutierrez, Acting Assistant Secretary Kneuer, Chairman Martin, and Commissioners Copps, Adelstein, Tate and McDowell:

On October 31, 2006, you received a letter from the National Cable and Telecommunications Association (NCTA) regarding the cable industry's views on our nation's transition to digital television, and its desire to avoid compliance with the Federal Communications Commission's (FCC) rules regarding competitive availability of navigation devices. By this letter, I would like to correct some of the misconceptions that were contained in NCTA's letter.

In his letter, Mr. McSlarrow notes that "there is a serious disconnect in government policies that threaten the digital transition". This alleged "serious disconnect" is based on the cable industry's misguided conclusion that the FCC's rules regarding the separable security and leased cable navigation devices could adversely impact the over-the-air DTV transition.

Let's start with the facts. The FCC's rules require the competitive availability of devices that are used to view cable programming. A separate security device or CableCARD, proposed and designed by the cable industry, is the key to ensuring that consumers can use devices of their choice to receive in digital cable boxes. Further, the FCC's rules require that devices equipped with CableCARD slots also include DTV tuners. The inclusion of DTV tuners in these devices means that more consumers will have access to over-the-air signals without the need for a government-subsidized converter box. By March 2007, all television receiving devices containing an analog tuner also will contain a digital tuner.

It is well within the cable industry's control to ensure that their subscribers' analog-only sets continue to work as they do today. Digital television signals received at the cable headend are converted to analog for reception by analog-only sets today. If cable operators wish to provide their subscribers with digital converter boxes for their own business reasons (such as reclaiming bandwidth for additional digital channels), then they are free to make those economic decisions. But such choices by cable operators have nothing to do with the over-the-air DTV transition or government-subsidized converter box program.

But this is beside the point. NCTA and the cable industry grossly over-inflate the costs associated with complying with the FCC's long-standing rules regarding competitive availability. They also fail to acknowledge that these prices will drop precipitously as competitive devices enter the market. In addition to increased consumer choice, competition will drive any additional costs toward zero because increased consumer choice enables component manufacturers to gain significant economies-to-scale in production. Technologies similar to CableCARD have exhibited a history of significant price declines. For example, prices of 802.11 PCMCIA wireless cards have dropped more than 90 percent since 1999 due to increased competition and consumer adoption.

CEA's over 2,100 members have significant expertise in manufacturing design and production. CEA estimates the initial manufacturing costs required to add CableCARD functionality to be in the $10-$15 range, which in a competitive market translates into an initial price of $40 or less at retail, not $72 to $93 as NCTA purports. Amortized over the life of the device suggests an additional monthly cost of less than $1.25 - not $2 to $3 per month as NCTA suggests. Again, any price differential will be driven to zero as competition frees consumers and empowers them with market-driven choice. The irony here is that, as part of their normal business practices, cable has no qualms about raising consumer rates by $2 to $3 per month. The most recent example is reflected in Comcast's rate increase to consumers in the Washington, DC area when the FCC mandated carriage of Washington Nationals baseball games.

But this is only half the story. Currently, there are over five million digital cable-ready television sets in the market. By 2008, approximately one-third of all televisions shipped will be digital cable-ready. Clearly, there is consumer demand for greater competition and improved consumer choice. On average, digital cable converter boxes cost consumers four times more per month than CableCARDs – an average of $6.50 per month for a set-top box versus an average of $1.61 per month for a CableCARD. With greater parity between CableCARDs and set-top boxes, consumers can opt for the significantly less expensive CableCARD. Only 20 percent of current consumers who lease a digital cable converter box would need to switch to CableCARDs to make even a $1 per month additional fee less costly in aggregate.

As a result of increased competition, price declines for CableCARDs would drive any incremental cost to a few cents per month. At under a dime per month, total consumer spending on cable subscription would be less than it currently is with only two percent of cable subscribers switching from set-top boxes to CableCARDs. Again, with approximately one-third of all televisions shipping by 2008 expected to be digital cable-ready, it is likely that a significant percentage of consumers will actually switch from set-top boxes to less expensive CableCARDs. This switch will ensure that economies-to-scale will drive down any price differential in manufacturing. Consumers are the ultimate beneficiaries of these lower costs and increased choice. With increased competition in the marketplace, consumers can finally capture the surplus created by falling component prices.

After numerous delays, including extensions granted by the FCC and two lost court cases, the cable companies are still chaining their customers to technology of the past and requiring them to pay higher fees for the privilege of using their pre-1996 first generation technology, not to mention defying the will of Congress and the FCC. A visit to the web site www.tivocommunity.com/tivo-vb/ shows the stark reality about the cable industry's lack of commitment to deploying CableCARDs and enabling consumer choice.

If the FCC grants a third and, effectively, final extension of its rules, cable companies will continue to use their proprietary set-top boxes safely within their monopolies, thereby undermining consumer choice, innovation and technological advancement. Ultimately, consumers pay for these actions through higher monthly costs and limited choice.

CEA has worked tirelessly to promote the DTV transition and competitive availability of devices used to receive cable programming. Consumers deserve to receive the benefits of what Congress and the FCC have deemed to be in the public interest. Competition and choice drive down costs for consumers. Proprietary, cable-mandated set-top boxes do not.

Sincerely,

Gary Shapiro
President and CEO

cc: The Honorable Joe Barton
The Honorable John D. Dingell
The Honorable Daniel K. Inouye
The Honorable Edward Markey
The Honorable Ted Stevens
The Honorable Fred Upton