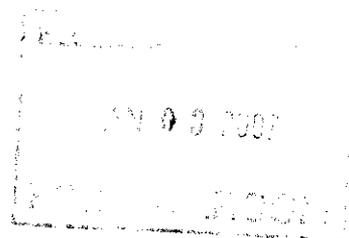


December 28, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

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Re: CS Docket 97-80

Dear Chairman Martin:

I am writing as a private citizen and long-time cable customer to express my opposition to petitions by the cable industry to further delay implementation of the set-top box integration ban.

In my view, the cable industry has not demonstrated that further delay would serve anybody's interest other than their own self-interest. This view is based on my own personal experience in trying to obtain cablecards for my TiVo series3 DVR.

My cable television provider is Time Warner Cable. On December 15, 2006, I activated my TiVo unit and called Time Warner Cable to obtain two cablecards. When I explained to the Time Warner representative who took the call that I wanted two cablecards for my TiVo series3 cablecard-ready DVR, he said "Can I put you on hold?" Two minutes later another representative came on the line and she said "What do you want." I again explained what I wanted. She also said "Can I put you on hold?" After several more minutes on hold she returned and said that Time Warner Cable only supports its own boxes and wouldn't be able to install the two cablecards in the TiVo series3 DVR. I said don't you support cablecards for Sony televisions? You don't own Sony, do you? She said, "Ok we do support cablecards, but only for televisions."

I asked to speak to the supervisor, who immediately came on the line. He repeated that Time Warner Cable doesn't support TiVo series3 set-top boxes, and that it is entirely legal for them not to do so. He said that if I wanted a DVR, I should get theirs. I said that the TiVo series3 has many features that Time Warner's DVR doesn't have. Eventually, he gave me a case number and said someone would call back in a week. I asked for his name, and he hung up on me.

Given this experience, I decided to use the Internet and see what I could learn about cable company support for cablecards. I learned a lot.

To begin with, the TWC Hudson Valley page on cablecards does explicitly state that they only support TVs. The same is true of TWC Albany, which supports the Capitol Region and western Mass. (<http://www.twc.com/hudsonvalley/products/cablecard.htm>). As I learned first hand, as of mid-December 2006, Time Warner Cable in the Mid-Hudson Valley, Albany and western Massachusetts had decided not to support the use of cablecards in competitive set-top boxes like the TiVo series3, offering instead to provide

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consumers with a DVR of their own design.

The New York Times technology columnist, David Pogue, in his September 21, 2006 column wrote: "most people considering a digital video recorder (DVR) these days don't get TiVo's. They rent generic boxes from cable companies. Now, these boxes are to TiVo's as an oxcart is to a Maserati." Somehow, Time Warner Cable felt that it could decide that tens of thousands of New York and Massachusetts families should "drive an oxcart" and be denied the ability to "drive a Maserati."

I decided to call the Time Warner Cable office in Brooklyn, New York. I explained that I wanted two cablecards installed into a TiVo series3 set top box. I was told that the cost of one card was \$3.75 /month, installation was \$30.00, and then she put me on hold. When she came back from discussing my request with her supervisor she stated that their policy was that they only support one cablecard per device. I explained to her that the TiVo series3 uses two cards so that, for example, you want watch two football games simultaneously, switching back and forth between them, and that I wanted that feature. She said that the policy is only one card. So it appears that in Brooklyn, Time Warner Cable has decided to allow consumers to drive a Maserati with half the tires missing.

In Cincinnati and Central New York State, I found that Time Warner took a different approach to predatory practice: outright misrepresentation. In the pages on their websites, and doubtless in their script to customers, they claimed that "TiVo boxes only support standard definition broadcasts. They will not support High Definition broadcasts. It is possible to connect your box to High Definition television, however, the DVR will only record programs from standard definition channels..." (<http://www.time-warner-cable.com/whatsnew/whatsnew.html>) Both of these statements are obviously false.

I then went to see the comments at tivocommunity.com about cable operator support (or lack thereof) for the TiVo series3. (<http://tivocommunity.com/tivo-series3-cable-card-issues/>). I read dozens of complaints about Time Warner Cable's policies and practices. In short, rather than providing cable television signals to any device that meets the FCC's standards, Time Warner has been acting as if it can use its monopoly position to prevent consumers from using the set-top box of their choice.

I also discovered that, not only were Time Warner and other cable companies not providing consumers with cablecards as required by law, but they are now seeking to exacerbate their lack of support for cablecards by seeking waivers of their obligation to use cablecards in their own set-top boxes!

Since my daughter works in TiVo's IT department, she put me in touch with the legal department at TiVo Inc., which then contacted Time Warner's corporate headquarters; only then did I finally receive two cablecards for my TiVo series3. But that's not the point. The point is that it should not have to take a consumer calling the TiVo legal department to have to receive cablecards. Time Warner should have provided the cards to me immediately upon my request without any hassle. Because I am retired

and outraged by Time Warner's behavior, and given my family connection to TiVo, I took the time to engage in this cablecard odyssey with Time Warner. Most consumers, when faced with Time Warner's refusal to provide cablecards, would have simply returned the TiVo series3, said the heck with it, and just settled for Time Warner's "oxcart" of a DVR.

I urge you to launch an investigation into the anticompetitive practices of the cable industry in seeking to restrict consumers' choice of set-top box technology and to deny any attempts by the cable industry to seek any waivers of cablecard regulations that would further weaken what little support there is for the availability of competitive set-top boxes. The cable industry's behavior with respect to cablecards can only be characterized as anti-competitive and anti-consumer. The FCC should put a stop to it once and for all.

Sincerely,



Arthur Goldschmidt
16 Beechwood Park
Poughkeepsie, NY 12601

Commissioner Jonathan S. Adelstein
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Deborah Taylor Tate