Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Comments – NBP Public Notice #27	)	GN Docket Nos. 09-47, 09-51, 09-137;
Comments on Video Device Innovation	)	CS Docket No. 97-80;
	)	MB Docket No. 09-23

VIA ELECTRONIC FILING

Comments – NBP Public Notice #27

Comments on Video Device Innovation

Rob Glidden, Esq.
http://www.robglidden.com

On Behalf of Self

1 Laird Drive
Moraga, CA 94556

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COMMENTS

The FCC Video Device Innovation Notice[1] asks one of the most fundamentally central questions to the prospect of not only a viable Broadband Plan for America, but also to the very future of the Open Internet that has revolutionized communications systems of all humanity:

> "How could the Commission develop a standard that would achieve a retail market for devices that can attach to all MVPD [Multichannel Video Programming Distributor] networks and access Internet-based video sources?"

There can be little doubt that video is a central broadband driver, but simply put, ***today there is no standard for "Internet-based video"***. Just ask the World Wide Web Consortium, who has struggled for years to no success to find an acceptable video standard to incorporate into HTML5, the first major update to the core Web standard in a decade[2].

Of course, there is a lot of video on the Internet, but it is controlled by a hodge-podge of proprietary and so-called "semi-open" plug-ins that do not meet even the loosest definition of "standard" and certainly nothing that comes near meeting the requirements, processes, and practices of the standardizing bodies of the Web and Internet.

So developing a standard that could attach to both MVPD and Internet video would require in the first place developing a standard for Internet video, on terms acceptable to the Open Internet. The FCC has much to contribute on this score, as do broadcasters in the

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[1] See Public Notice, *Comment Sought on Video Device Innovation*, NBP Public Notice #27, DA 09-2519 (rel. Dec. 3, 2009) ("Video Device Innovation Notice").

[2] See, Rob Glidden, "And the Best Answer For Open Web Video Is …", July 10, 2009, available at http://www.robglidden.com/2009/07/the-best-answer-for-open-web-video/

burgeoning EBU-led “hybrid broadcast-broadband” initiative, which has already developed clear and measurable requirements specifically for hybrid, multi-network video standards[3].

But the non-solution to this problem is as clear as it is unacceptable. Forcing the Open Internet to adopt the closed, “walled-garden” model and captured, controlled specifications of status-quo gridlock that are dogging digital TV, digital cable, and IPTV, or concede to proprietary control, would certainly damage the Open Internet and perpetuate the dysfunctional tendencies of “standards as trade association lobbying” that underpin this FCC notice.

The right way forward is equally clear. Standardize, in appropriate organizations and with appropriate oversight, in the Open Internet model of uncaptured, royalty-free process, the needed elements: codecs, transport stream, conditional access, and UI middleware.

The good news is that media standards gridlock has been a global challenge addressed by regulators in retail-scale national standards, and initiatives already underway on all of these

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[3] The European Broadcasters Union, the world's largest broadcaster group, launched the hybrid broadcast-broadband initiative in February, 2009 with EBU Recommendation 127, "Television in a Hybrid Broadcast/Broadband Environment" available at http://tech.ebu.ch/docs/r/r127.pdf.

EBU's detailed HBB requirements, which have already influenced several standardization activities, are listed in "HBB From a Broadcaster Perspective" available http://www.etsi.org/website/NewsandEvents/HBBWorkshop.aspx. General Requirements, one of the seven requirements categories, are:

1. Broadcasters want to re-establish a direct relationship with the end user and want to use the internet to provide catch-up services (like iPlayer) and other services directly to them.
2. HBB should enable the provision of enhanced features where broadcast and broadband services and content are suitably combined.
3. Minimum core functionalities/capabilities as well as higher level extensions shall be defined as mandatory and/or optional ones.
4. European broadcasters and CE manufacturers should agree on an implementation roadmap indicating which functionalities/features should be implemented
5. HBB shall be rolled out on the horizontal market for CE devices.
6. The HBB system shall be agreed at pan-European level as an open (non-proprietary) standard adopted by ETSI.
7. HBB shall permit rolling out any business models including free-to-air (FTA), pay-TV, pay-per-view (PPV), premium content offer, special events, etc. for both linear and non-linear content.
8. IPR and patent issues shall be resolved prior to rolling out the HBB services

See Rob Glidden, "Broadcasters Challenge Broadband TV Patent Submarine Threat", Sept. 16, 2009, available at http://www.robglidden.com/2009/09/ebu-challenges-broadband-tv-standards-patent-submarines/

elements point to best practices, way forward to success, and pitfalls to avoid[4]. Gridlock, capture, patent overcharging, and proprietary control – key underlying contributors to the absence of the robust retail, unaffiliated device markets as contemplated by Section 629 and this notice -- are not the only inevitable outcome, they can be addressed[5].

The Commission should evaluate these activities and incorporate appropriate lessons into a proactive video standardization element of the broadband plan for America, one that envisions video standards to embrace, empower, and leverage the best of the Open Internet, not one that protects walled gardens through silos of pseudo-standards and control points.

CONCLUSION

For the reasons set forth above, I respectfully request that the Commission consider taking further action on matters raised above.

Respectfully submitted,

/s/ Rob Glidden
ROB GLIDDEN

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[4] See Rob Glidden, "ITU Signals Work Start for H.264/MPEG-4 AVC Successor — Needs Royalty-Free Track", Dec. 2, 2009, available at http://www.mpegrf.com, "Comments on Project Canvas", Aug. 31, 2009, and "The BRIC That Could: How Brazil Is Changing Your TV", Sept. 3, 2009, available at http://www.robglidden.com.

[5] See for example, the Computer & Communications Industry Association's recent response to a U.S. House inquiry about standardization policy which asked, in part, "With the globalization of technology development and business, is it time to assess an international standards system developed 50 years ago?":

"The study should consider policies for requiring patent holders to assert rights in a timely manner and insulating users of qualified open standards processes against surprise attacks....The study should survey guidelines and best practices for patent disclosure and licensing commitments. Better internal processes can help assure the quality and usability of standards and minimize concerns about disruption and abuse."

Ed Black, Computer & Communications Industry Association response to The Honorable Bart Gordon, Chairman, Committee on Science & Technology, U.S. House of Representatives, Oct. 28, 2009, available http://www.ccianet.org/CCIA/files/ccLibraryFiles/Filename/000000000292/BartGordonLetter.pdf

See also Rob Glidden, "Public Standards Require Public Accountability, May 28, 2009, available at http://www.robglidden.com/2009/05/public-standards-require-public-accountability/.

Service List

On the date indicated below, a copy of the foregoing Reply Comments was filed in the above-referenced dockets and sent to the following individuals via the method indicated below:

Competition Policy Division
Wireline Competition Bureau
Federal Communications Commission
Room 5-C140
445 12th Street, S.W.,
Washington, D.C. 20554
Via Email: cpdcopies@fcc.gov

Best Copy and Printing, Inc. (BCPI)
Portals II, 445 12th Street, S.W.
Room CY-B402, Washington, D.C. 20554
Via Email: fcc@bcpiweb.com.

/s/ Rob Glidden
Rob Glidden
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