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August 31, 2010

Ms Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC
20554

Re: CS Docket Number 97-80

Dear Sirs and Mesdames,

As a consumer of cable television services, I am opposed to the granting of waivers from the CableCARD requirements of 47 CFR 76.1204(a)(1) **unless** a there is a simultaneous implementation of the following requirements upon cable companies, with substantial penalties for any breach:

1. CableCARDS are to be available without up-front or recurring charges and in any reasonable quantity requested by a cable subscriber.
2. All channels delivered in unencrypted format (e.g. clear QAM) are to carry the necessary channel mapping data to enable the proper channel number tuning on digital-cable-ready TVs and to enable the use of third-party electronic programming guide data for PCs and similar equipment with internal or external digital tuners.
3. Channels delivered in standard definition video (SD) in an unencrypted format (e.g. clear QAM) must also be delivered in high-definition video (HD) in the same manner, if available from the content originator in HD.

4. Channels delivered in a cable company's lowest-cost digital television pricing tier may not be delivered via switched digital video (SDV).

In the alternative, I support conditional access methods other than CableCARDS which would be technologically innovative and determined by market forces provided that their implementation by cable operators is consistent with the conditions above.

As evidence in support of my position, I submit my own experience attempting to use my own equipment purchased at retail in place of cable-company provided equipment. My experience has been the same with Comcast in Bellevue, Washington and in Santa Clara, California.

In both cities, Comcast offered to provide me with digital tuning adapters (DTAs) without charge, which do not include CableCARDS, and yet refused to provide me equally without charge the necessary CableCARDS for my own equipment to be used instead of the DTAs, even though I would be subscribing to and watching the **same** channels in both scenarios. When I discovered that the channels visible via the DTA were actually delivered in clear QAM to my digital TV (thus requiring **no** additional equipment), Comcast repeatedly refused to provide timely and accurate virtual channel mapping information so that my digital-cable-ready high-definition television could be tuned correctly. Comcast was never able to explain why it could not list on its website or on its own TV listings channel something as simple as, for example, the fact that Disney was channel 40 on an analog TV with a DTA but channel 80.9 on a digital TV without a DTA. Instead Comcast repeatedly insisted, incorrectly, that I must **rent** a Comcast set-top box to watch digital television signals, which would include a **free** CableCARD. And yet the **same CableCARD** would **not be free** if used **in my own equipment**.

Comcast has never satisfactorily (or consistently) explained to me why a CableCARD is **free** if used in **their equipment**, but subject to a **rental fee** if used in **my** equipment, nor explained why **some** of **their** equipment requires a CableCARD but some **does not**. In both Washington State and in California, Comcast will provide a signal via a DTA, **without** a CableCARD, or via a **rented** set-top box, with a **free** CableCARD. Without a DTA I can receive the same unencrypted channels on my digital TV as on an older analog TV with a DTA, but I would not be given channel

mapping information to know which virtual channel number on my digital TV carried which program signal. If I want to use my own PC for digital video recorder (DVR) and electronic program guide (EPG) features instead of a rented set-top box then I would not be given a free CableCARD to use with my own equipment, but instead made to pay for a CableCARD that was apparently otherwise free.

Clearly this has created a situation in which I, as a consumer, am **forced to pay more** for access to the **same** cable channels if I chose to use my own equipment (in this case, a Dell PC running Microsoft Windows 7, with attached ATI digital cable tuners). And while I have two external tuners to enable watching one broadcast while recording another, and these tuners are connected to one PC connected to one monitor, Comcast insists on charging me for each CableCARD as if I am connecting the equipment to two different televisions. I have all but given up trying to resolve this billing issue with Comcast as it is clear the customer service agents with whom I have spoken understand neither the concept of nor the rules associated with the connection of customer-owned equipment.

Notwithstanding the higher fees I am paying, the service has not been trouble-free. Comcast technicians have visited my house on multiple occasions to correct problems which turned out to be head-end provisioning errors or distribution equipment issues. Given the technical issues, I am thankful Comcast does not, in my area, use SDV, which would only further test Comcast's operational capability. As the market matures, technical alternatives to CableCARDS will emerge and should be embraced, but the mandate for a level playing field for both customer-owned and cable-company-owned equipment **must** be maintained by the FCC.

Comcast has repeatedly offered me Comcast-branded HD DVR equipment, for a recurring fee, as a resolution to my issues. However, as a consumer, *I expect to be able to choose my own tuning and DVR equipment just as I chose my own television from many available models.* Relative to my expectations as a consumer, *the DVR equipment provided by Comcast is deficient with respect to ease-of-use, available storage, error-free operation, and long-term cost.* With respect to video-on-demand services, I prefer to subscribe to competitive alternatives delivered over the internet, such as NetFlix, rather than be required to use rented equipment from

Comcast. (I note that Comcast does not unbundle its video-on-demand service, forcing me to pay the service whether I use it or not.)

Although I cannot speculate on Comcast's motivations in conducting itself as it has, the net result has been a frustrated consumer who has been tempted many times to simply give in to Comcast's wishes, abandon my own equipment, and rent one of their set-top boxes. However, I refuse to do so as a matter of principle. I know I am entitled to use my own equipment, and I chose to do so. Giving in to Comcast in this case would be a rational consumer decision only in the sense that I would be choosing between the least objectionable of two alternatives (their equipment or no TV) because Comcast had succeeded in making my preferred alternative (my own equipment) completely impractical.

Based on the evidence, it appears to me that rigorous competition for CableCARD-enabled tuning units sold and distributed through retail channels has been effectively stifled. In this regard I disagree with the position of the National Cable and Telecommunications Association (NCTA) as disclosed in the attachment to the *ex parte* disclosure letter dated August 25, 2010 from Mr. Neal M. Goldberg of the NCTA to Ms Darlene H. Dortch of the FCC. My difficulty in deploying CableCARDS with my own equipment suggests why there would be a disparity between deployments of CableCARDS in operator-owned equipment and customer-owned equipment. That the difference is on the order of 38 times, as disclosed in the NCTA report to the FCC of September 29, 2009, only reflects the degree to which cable companies have made it impractical for customers to use their own equipment. Most consumers have either given up on using their own equipment because it was too difficult or never tried because cable companies told them they needed to rent set-top boxes just to watch and record their favorite TV shows.

In summary, I reiterate my opposition to the granting of waivers from the CableCARD requirements of 47 CFR 76.1204(a)(1). However, I also submit that the FCC's original goal of ensuring consumer choice in equipment used to watch TV might be better served if waivers were granted with a simultaneous implementation of the following requirements upon cable companies to more fully enable customer-provided equipment, with substantial penalties for any breach of the requirements:

1. CableCARDS are to be available without up-front or recurring charges and in any reasonable quantity requested by a cable subscriber.
2. All channels delivered in unencrypted format (e.g. clear QAM) are to carry the necessary channel mapping data to enable the proper channel number tuning on digital-cable-ready TVs and to enable the use of third-party electronic programming guide data for PCs and similar equipment with internal or external digital tuners.
3. Channels delivered in standard definition video (SD) in an unencrypted format (e.g. clear QAM) must also be delivered in high-definition video (HD) in the same manner, if available from the content originator in HD.
4. Channels delivered in a cable company's lowest-cost digital television pricing tier may not be delivered via switched digital video (SDV).

I also support conditional access methods other than CableCARDS provided that their implementation is consistent with the conditions above.

Respectfully submitted,

/s/ John Traynor