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October 4, 2010

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

RE: Video Device Competition; Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment, MB Docket No. 10-91, CS Docket No. 97-80, PP Docket No. 00-67

Dear Ms. Dortch:

On October 4, 2010, David Young, Will Johnson and I met separately with Paul de Sa, Chief of the Office of Strategic Planning and Policy Analysis, and Douglas Sicker, Chief Technologist of the FCC, to discuss our position in the AllVid proceeding.

We expressed support for the Commission's objective of encouraging the proliferation of smart video devices that can access a wide array of content, including content delivered by multichannel video programming distributors (MVPDs) and other types of video providers, and explained that the video marketplace is already moving in that direction as a result of consumer demand and technical evolution. We support, too, the growing convergence between the television and the Internet, which enables consumers to view Internet content on their televisions as well as video content (both from more traditional providers and new online competitors) on their computers or other devices. In fact, Verizon has been at the forefront of this integration, making certain content available online to subscribers and delivering an expanding range of Internet video content to our FiOS subscribers on their television screens.

As the demand to consume media on multiple devices continues to grow along with the need for competitive providers to differentiate their service offerings, all types of video providers (including traditional MVPDs, newer facilities-based video providers like Verizon, and online video providers), content providers, and device manufacturers are coming up with new and innovative ways to make their video content accessible. It is these business incentives and consumer demand that are driving the delivery of content to a broad range of consumer devices and not only to television screens via traditional set-top boxes. Thus, no FCC action is needed in this dynamic and evolving marketplace to achieve the goals of Section 629 – and new rules, particularly in the form of technology mandates, would delay, distort, or prevent these developments.

A superb example of how content is making its way to a variety of consumer electronic devices is Netflix's provision of service. Netflix has been successful in ensuring that its content is available on an array of smart video devices, including televisions, Blu-Ray players, DVRs, video appliances, tablets, game consoles and, of course, computers. Netflix succeeded in integrating its service into consumer devices by: (1) publishing the technical specifications necessary for devices and applications to work with Netflix; and (2) publishing its terms of service, which set forth the business framework for incorporating Netflix into a device or application. The result is that device makers have the tools and information they need to ensure that Netflix can operate on their products. The Netflix approach shows one way that video distributors, content owners, and device manufacturers can work together to increase the range of choices available for consumers. As compared to technology mandates or other heavy-handed regulation, such an approach demonstrates that current marketplace developments and realities are allowing video providers of all types, content providers and equipment manufacturers to differentiate their offerings.

The Commission should not pursue any one-size-fits-all technology mandate – particularly one, such as the AllVid proposal, that applies to one subset of providers – traditional MVPDs – in the dynamic and evolving video marketplace. MVPD-centric technology mandates ignore the complexity of today's dynamic video marketplace and the range of players involved in the video device ecosystem, and would result in substantial wasted resources with no benefit to consumers. For example, such a mandate would presumably require all MVPDs, with different and complex network architectures, to reach agreement on a standard interface and set of supported services, thus leading to years of protracted negotiations that inhibit, rather than foster, innovation in this area. As many commenters have pointed out, an AllVid device cannot be developed quickly or inexpensively. Further, there is no guarantee regarding the extent to which device manufacturers would eventually build and support any new devices as, under the current proposal, they would not be subject to any requirements to implement the AllVid mandate, and similarly no guarantee that other types of video providers would offer their services in compliance with these standards. Moreover, current technology and market developments are likely to outpace this effort, resulting in the widespread use of smart video devices with access to MVPD content, long before any technology mandates could be formulated and implemented.

Smart video devices, including Internet-connected televisions, have the potential to become substitutes for leased set-top boxes, aggregating Internet and MVPD content. We have every incentive to ensure that our video service is available on a wide variety of devices. This is because our video service is more valuable when delivered to subscribers over as many devices as possible. Just last month, we announced that we have demonstrated technology that would enable our customers to access our FiOS TV video content on their Apple iPads while in their homes, and we hope to bring this and other similar innovations to our consumers in the near future. In light of current business incentives and market developments, we urge the FCC to turn away from the AllVid technology mandate- an unnecessary and heavy-handed proposal, likely to mire the industry in conflict for years- and instead pursue policies that encourage the consumer- and technology-driven developments that are now well underway to increase consumers' choices in video services and devices. Attached are two articles, one pointing out that unintended and

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undesired consequences often result from technology mandates and the other describing Netflix's success in expanding the devices on which its service is available.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Jobs". The signature is fluid and cursive, with a prominent "S" and "J".

cc: Douglas Sicker
Paul de Sa
Bill Lake

Attachments

How do you spell device mandate failure? U-H-F

By [Matthew Lasar](#) | Last updated 9 days ago

Man, the broadcasting industry is on a device mandate *rampage* these days. For weeks, we've been covering the National Association of Broadcasters call for Congress to require all smartphones to include FM receivers. This requirement is apparently what would make passage of the Performance Rights Act acceptable to the NAB—the bill would require radio broadcasters to pay royalties to performers as well as song copyright holders.

But this dubious deal isn't enough, it seems. Now the broadcasters and their supporters are also revving up their campaign to require handhelds to carry TV tuners too. The latest call comes from [TVNewsCheck](#).

"Let's put a mobile DTV receiver in the pocket of every American so that they can tune into their favorite broadcast show anytime, anywhere—in the store, on the bus, at the dentist," the news service's editorial proclaims. "How do we do it? Convince Congress to mandate DTV tuners in all new cell phones."

And how would they do *that*?

"For starters," the commentary continues, "broadcasters could argue that a tuner in every phone would help insure that free, universal TV would live on as a basic high-quality video service for all Americans, no matter how much money they have and despite what the broadband elite say."

Television *and* FM tuners? What's next? Will all smartphones have to come with little TV dinner trays and beer bottle openers, too? But seriously folks, what's intriguing about the article (aside from that reference to "the broadband elite") is that it cites a number of precedents for the TV tuner move—first among them a mostly forgotten mandate from the early 1960s.

"There is precedent," the essay notes. "In 1962, Congress passed the All-Channel Receiver Act requiring UHF tuners in all TV sets."

We strongly advise the broadcasting industry *not* to bring up the Ultra High Frequency band device mandate of 1962 if it seriously plans to pursue this idea. But since TVNewsCheck did, it's an opportunity to explore what scholars regard as one of the more interesting mandate disappointments of the analog TV era. The All-Channel Receiver Act may sound geeky and obscure, but it was a centerpiece of the Kennedy administration's attempt to rescue television from the banality to which the White House thought it had fallen.

Let us go back to Camelot, and see how far a device mandate can go awry.

Nothing is better

It was 1961, and President Kennedy's new Federal Communications Commission Chair Newton Minow was speaking at the NAB's annual convention in Washington, DC. The broadcasters were already suspicious of this guy, so he tried to be nice at first.

"When television is good, nothing—not the theater, not the magazines or newspapers—nothing is better," Minow assuringly began.

The NAB execs folded their hands and politely smiled. *Wait for it*, they thought. And as they expected, it came.

"But when television is bad," the FCC's new boss continued, "nothing is worse."

I invite each of you to sit down in front of your television set when your station goes on the air and stay there, for a day, without a book, without a magazine, without a newspaper, without a profit and loss sheet or a rating book to distract you. Keep your eyes glued to that set until the station signs off. I can assure you that what you will observe is a vast wasteland.

You will see a procession of game shows, formula comedies about totally unbelievable families, blood and thunder, mayhem, violence, sadism, murder, western bad men, western good men, private eyes, gangsters, more violence, and cartoons. And endlessly commercials—many screaming, cajoling, and offending. And most of all, boredom. True, you'll see a few things you will enjoy. But they will be

very, very few. And if you think I exaggerate, I only ask you to try it.

Minow's speech, with its oblique reference to T.S. Eliot's most famous poem, reflected the widespread perception that TV had lost its way. The Golden Age of the mid-1950s, symbolized by Paddy Chayefsky's brilliant TV drama *Marty*, had been shunted aside by a cavalcade of garbage like *Queen for a Day* and game shows, most of them corrupt.

The most famous of these contests, *Twenty-One*, featured the erudite Charles Van Doren—professor of English at Columbia University, who was regularly fed the answers in advance to factoid questions about opera, science, and boxing history. In 1959 Van Doren admitted before a Congressional committee that the program on which he was appeared was fixed, as were almost all the quiz shows on the dial. The scandal gave broadcasting a black eye from which it had not recovered.

Mixing it up

But the question in 1961 was how to redeem TV. Here the FCC stalled on debates that Ars readers would recognize. Minow's predecessor at the agency had tried to cajole the industry into bolstering evening TV schedules with more news, followed by "high" cultural fare from 8pm through 11pm. But this had been a voluntary plan, which fizzled when the press learned that its author had enjoyed a week long yachting trip at the expense of a prominent station owner.

The Commission also talked about toughening up licensing requirements and redefining what the FCC meant by "public service" in its guidelines to broadcasters. These proposals were accompanied by angry debates in which words like "censorship" and "accountability," appeared often. Sound familiar?

But there was one idea upon which almost everybody seemed to smile—its trajectory skillfully narrated by the historian James L. Baughman in his study *Televisions Guardians: The FCC and the Politics of Programming, 1958-1967*. Why not make it easier for broadcasters to start and operate UHF stations? By the late 1950s, the FCC had given most broadcasters operating in big markets Very High Frequency (VHF) licenses. These encompassed channels 2 through 13 in the 54 to 216 MHz zone (chart [here](#)).

UHF signals operated further up on channels 14 to 83 in the 70-1002 MHz area. The FCC licensed them out too, but their broadcast signals tended to be weaker. They also cost more to run with the technology of the day.

Critics in the mid-1950s charged that the Commission had botched the allocation process by licensing both UHF and VHF signals in the same market areas. This created an uneven playing field for UHF license owners, and they floundered. By 1956, over a third of the nation's UHF stations had gone dark.

"Through 1959 no individual UHF station earned more than \$200,000 a year," Baughman notes, "while in 1957, 117 VHF channels passed that income figure, 43 of them netting more than \$1 million each." Many TV manufacturers did not even bother to include UHF channels on their sets. By 1961 there were only 39 UHF licenses still running. Collectively, they were \$20 million in the red.

Citing these bad results, UHF advocates, some boosters of early public television, called for "deintermixture"—creating VHF free zones where UHF could effectively compete. So did ABC television, which owned UHF stations in various areas.

We have a cure

Now the Kennedy administration saw UHF's revival as a key component of TV's Second Chance. Both Minow and advocates for what was then called "educational television" urged Congress to establish a device mandate for TV sets. All receivers would have to include both VHF and UHF tuners. As consumers bought new sets, they would watch UHF stations more often. Advertisers would buy time on them and the service would prosper and grow.

Minow saw this as a creative alternative to direct programming regulation. "Either you have limited channels and government regulation, or unlimited channels and no control," he explained in 1962. "The ills of television, unlike many problems which face the world today, can be cured, and opening up UHF channels 14 to 83 for more television stations is a solution."

More outlets would mean more diversity, he added, serving "smaller, special groups—but groups that are, in *toto*,

significant both in numbers and taste."

But while the Kennedy administration won the big networks and device makers over to the UHF tuner mandate, by 1962 deintermixture was no longer politically possible. The policy would have involved wiping entire markets clean of VHF signals, something that VHF license owners, TV watchers, and their elected representatives angrily opposed. And so while TV sets now included a full complement of UHF channels, these stations still operated at a competitive disadvantage.

The result was that UHF grew as a service, for sure. The All-Channel Receiver Act, finally brought UHF "into the club," writes the broadcasting historian Steven Sterling, "even though UHF tuners did not measure up to VHF tuners in quality in the same set until the manufacturers were pushed by the FCC in the 1970s."

Yet this growth came in ways that disappointed regulators. Although a few minority broadcasters bought UHF channels in big cities, most operators produced very little new, niche, or local programming. Educational, noncommercial broadcasters who availed themselves of UHF signals could not survive without foundation funding, and clamored for the support that eventually came with the Public Broadcasting Act of 1967.

"The good Lord has never created anything that can gobble up money the way television can," lamented a public TV advocate in 1964.

And ironically, in his zeal to promote UHF, Minow's FCC overlooked another struggling service—Community Access Television, otherwise known as cable TV.

"Committed to UHF and fearful of repeating the earlier error of neglecting that portion of the spectrum," Baughman writes, "the agency promulgated layers of rules and restrictions, all designed to slow CATV's diffusion and make all-channel television succeed. Yet by the 1970s, CATV and not UHF appeared the best means through which viewers could enjoy the greater choice in programming that Minow and others had deemed so vital."

Looking backwards

Does this story mean that device mandates *never* work? No. The most important success would obviously be the FCC's requirement that all television receivers sold interstate or imported as of March 1, 2007 had to contain a digital tuner.

But far less successful experiments abound. These include the V-Chip. The required add-on was designed to help parents control what their kids watch on TV. But only a minority of households use the feature. Then there's CableCard, that little data wedge that was supposed to free consumers to pick the set top box of their choice—except so few do that even the FCC has admitted the policy is a failure.

In the end, device mandates are an extremely blunt instrument that only work when the overwhelming consensus is in their favor. Regulators, lawmakers, and advocates who insist on them despite the objections or disinterest of consumers, content providers, carriers, or manufacturers do so as an act of wishful thinking.

They might want to heed the UHF story and wish for something else.

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November 4, 2009 3:20 PM PST

Netflix-compatible video devices compared

by [John P. Falcone](#)

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(Credit: LG)

Netflix has been on a roll in 2009, adding its Internet streaming video-on-demand service to an ever expanding list of devices. In just the past few weeks, the big news has been the imminent arrival of Netflix streaming on the [PlayStation 3](#), along with more rumors that it will be coming to the [Wii](#) as well. Best Buy's Insignia brand has debuted a Netflix-capable Blu-ray player that lists for \$149 (and has already been seen on sale for as little as \$99). And Roku has delivered two new versions of its mini set-top box, lowering the entry-level price to just \$80 for the non-HD version. That's in addition to Netflix's availability on the [Xbox 360](#), TiVo

DVRs, and Blu-ray players from LG and Samsung, and an increasing number of TVs.

With those notable changes in the Netflix landscape, we thought it was a good time to update our overview on Netflix streaming. (A recap follows, for the uninitiated; the Netflix-savvy can jump straight to the list of [Netflix-compatible products](#).)

Netflix offers a library of 12,000-plus streaming titles over the Internet, available on an "all you can eat" basis for any customer on the \$9 per month (one DVD movie by mail at a time) or higher plan. So, in addition to getting DVD (or, for an additional premium, Blu-ray) discs by mail, Netflix subscribers also get unlimited access to thousands of hours of on-demand programming. Just add the titles to the "Instant Queue" in your Netflix account, and they'll be available on any compatible device once you pair it. (The [setup procedure](#), as outlined by CNET's Molly Wood, is quick and easy.)

There are a few downsides. Almost none of the available movie content would be classified in the "new release" category--the newest titles are usually at least a few years old. Also, the availability of titles ebbs and flows--many are available for a window of 60 to 90 days, after which they may or may not return a few months later. And many of the videos aren't available in their native wide-screen format. Also, you have to manipulate your queue from a PC browser. Aside from a list of new and notable titles, you can't search the available offerings and pick new selections that aren't already in your queue.

That said, we think the advantages are palpable. Netflix's TV selection offers a wide array of more recent choices than its movie slate, including some CBS shows that appear within a week of their initial broadcast (disclosure: CNET is a property of CBS). Netflix has also begun offering a small but growing slate of streaming content in HD. Video quality is generally good, and selections start playing within 30 seconds. They will also auto-resume wherever you left off, even if you move to another device. (You can have multiple Netflix devices on each account, and you can also stream to Web browsers on Macs and Windows PCs.)

But the bottom line is that Netflix streaming is just a great value proposition. For those who are already Netflix subscribers, the streaming feature is effectively a free upgrade--one that can offer hundreds of hours of programming a month. By contrast, the same monthly fee (as little as \$9) would only get you a handful of movies or TV episodes on rival pay-per-view services, such as Apple's iTunes ([Apple TV](#)), [Vudu](#), CinemaNow, Blockbuster, and [Amazon Video-on-Demand](#).

(That said, note that some or all of the latter four services are available in tandem with Netflix on some of the devices profiled below--so it's not an either/or proposition.)

As 2009 winds down, the list of Netflix-compatible devices continues to expand. We've rounded up all the current product choices, and will keep this list up to date as needed. Prices listed are the current street prices.

Netflix the quick and easy way:

Roku Player (\$80-130)

The "Roku box" was the first Netflix streaming device to hit the market, and--in many ways--it's still the best. The original model, the \$100 Roku HD, has recently been joined by an \$80 step-down model (the [Roku SD](#), which doesn't offer HD output) and a \$130 step-up model, the [Roku HD XR](#) (which offers faster 802.11n Wi-Fi and a USB port for future expansion). Built-in Wi-Fi means you can connect it with just two cables--power and HDMI--though the little box has all of the AV connections you'll need to connect it even to older (non-HD) TVs. And unlike when it first launched, the Roku does more than Netflix now. Recent firmware upgrades have added access to [Amazon Video-on-Demand content](#) (pay-per-view) and Major League Baseball games (subscription required), and by the end of the year, additional online "channels" will be available as well.



Netflix-enabled game consoles:

Microsoft Xbox 360 (\$300 plus Xbox Live Gold subscription)

Since [November 2008](#), the Xbox 360 has been Netflix-enabled. But there are caveats: Netflix only works with 360s that have a storage option (owners of the entry-level 360 will need to add a hard drive or at least a memory card), it only works for 360 owners with [Xbox Live Gold memberships](#) (which run around \$50 a year), and the 360 doesn't have built-in Wi-Fi (you'll need to go Ethernet or buy an expensive adapter). But if you've already got a 360, there's probably no need to pick up the Roku box.



Sony PlayStation 3 (\$300)

Previously, PS3 owners had to use a third-party software package called [PlayOn](#) to get Netflix (and Hulu) on their game console, which required leaving a PC powered up elsewhere on your home network. But as of November 2009, the PS3 has *officially* begun to [support](#)



[Netflix](#). The one catch: for the time being, you'll need to use a special Blu-ray disc (available for free from Netflix) to enable streaming. On the bright side, though, you don't need to pay an additional Xbox Live-style fee.

[Nintendo Wii](#) (\$200)

The Wii does not officially support Netflix streaming. But [rumors persist](#) that it will soon, thanks to the same sort of disc-based workaround that's coming to the PS3. Only time will tell--but such an arrangement could expand the Netflix user base by millions.

Netflix-enabled DVRs:

[TiVo HD DVR](#) (\$250 plus service)

[TiVo HD XL DVR](#) (\$600 plus service)

Any of the Series3/HD TiVos can be paired to a Netflix account.

And TiVo also offers Amazon and YouTube streaming (in addition to a host of other online content choices), making it the closest thing to a digital video Swiss Army Knife to date.



[Digeo Moxi DVR](#) (\$800)

Like the PS3, Moxi isn't an "official" Netflix partner, but--following an April 2009 [software revamp](#)--it works just as well with the PlayOn software as the Sony game console. Currently, Digeo is offering free subscription keys for Moxi owners.

Netflix-enabled Blu-ray players:

[Insignia NS-BRDVD3](#) (\$150)

[Insignia NS-WBRDVD](#) (\$200)

[LG BD370](#) (\$250)

[LG BD390](#) (\$400)

[Samsung BD-P1600](#) (\$250)

[Samsung BD-P3600](#) (\$350)

[Samsung BD-P4600](#) (\$400)

[Sony BDP-N460](#) (\$250)

Every 2009 Blu-ray player from LG and Samsung offers Netflix compatibility, as does Sony's BDP-N460. That gives those companies a big leg up on competitors such as Panasonic (which is currently Netflix-less). If you don't have a wired Ethernet connection near your TV--and you don't want to invest in a pair of [powerline Ethernet adapters](#)--you'll probably want to go with one of the higher-end models that include Wi-Fi (either built-in or with a USB dongle). We found



the LG BD390 to be the best choice--it also offers access to YouTube videos, Vudu streaming, and other digital files (photos, music, and videos) on your home network.

New to the Netflix party is Best Buy's in-house brand, Insignia. The NS-BRDVD3 has been seen on sale for [as little as \\$99](#), making it a compelling alternatives to the discless Roku boxes. The more expensive Insignia NS-WBRDVD adds built-in Wi-Fi.

Netflix-enabled home theater systems:

[LG LHB953](#) (\$500)

[LG LHB977](#) (\$600)

[Samsung HT-BD1250](#) (\$550)

[Samsung HT-BD7200](#) (\$800)

[Samsung HT-BD8200](#) (\$750)



As with their standalone Blu-ray players, LG and Samsung have also built Netflix compatibility into their 2009 Blu-ray home theater systems. We haven't reviewed any of these systems yet, but we expect the Netflix functionality to be identical to what's found in the company's respective Blu-ray players. None of these models have built-in Wi-Fi, however. Samsung offers a Wi-Fi dongle for \$80, while the LG models will need a powerline Ethernet adapter or wireless bridge if you don't have a nearby Ethernet jack.

Netflix-enabled TVs:

[LG LH50 LCD TVs](#) (pictured at top of this post)

[LG PS80 plasma TVs](#)

[Sony KDL-W5100 LCD TVs](#)

[Sony KDL-Z5100 LCD TVs](#)

[Sony KDL-XBR9 LCD TVs](#)

[Sony KDL-XBR10 LCD TVs](#)

[Vizio VF552XVT LCD TV](#) (coming winter 2010)

An increasing number of TVs are coming equipped with a wide variety of [online-enabled features](#), and Netflix is one of the premier offerings. LG's "NetCast" TVs are available now, as are Sony's Bravia Internet Internet Link-enabled models (which got a Netflix-enabled software upgrade in mid-November 2009). On the horizon is Vizio's VF552XVT, which includes built-in Wi-Fi and a Bluetooth remote (with QWERTY keyboard).

Netflix on your PC:

It's worth mentioning that any Mac (Intel-based) or Windows PC (XP/Vista/7) with a decent video capabilities can access Netflix streaming directly through a Web browser. Connect a TV to your PC's video output, and you can enjoy Netflix streaming--and any other Web-based video--without the need to buy additional hardware. It's a choice that some find compelling enough to ditch their cable or satellite TV service altogether.

Additional reading:

[Dreaming of cutting the subscription TV cord](#)

[You don't need satellite TV when times get tough](#)

Editors' note: Since its original publication on May 29, 2009, this story has been updated to reflect the availability of new Netflix-enabled products.



John P. Falcone covers home theater and network entertainment products. He's been writing for CNET since 2002.

Topics: Home video, Gadget news

Tags: Netflix, video on demand, home video, home theater

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