



October 6, 2010

Ex Parte via Electronic Filing

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, CS Dkt. 97-80; Video Device Competition, MB Dkt. 10-91; Compatibility Between Cable Systems and Consumer Electronics Equipment, PP Dkt. 00-67*

Dear Ms. Dortch:

The video marketplace is “undergoing its biggest transformation in decades,”¹ enhancing the consumer video experience. Google applauds the significant progress the FCC has made so far to ensure that the vast potential promised by the convergence of television and Internet will be realized and enjoyed by consumers, including through the above-captioned proceedings.² Swift action is needed to overcome today’s “set-top box innovation gap” and to unleash retail competition for “smart video devices.”³

The FCC’s proposed all video standardized interface solution (“AllVid”) could transform the way consumers watch, discover, and share video. AllVid focuses on universality, portability, simplicity, and interoperability. Numerous commenters agree that AllVid could jumpstart retail video device competition, giving consumers real

¹ J. Vascellaro and T. Catan, *Comcast Gets Static on Net TV*, WALL ST. J., Aug. 30, 2010, at B1.

² See *Video Device Competition, Notice of Inquiry*, 25 FCC Rcd. 4275 (2010) (“*AllVid NOI*”). These devices will foster greater choice, lower costs and expanded capabilities, increasing competition and broadband utilization. See Federal Communications Commission, *Connecting America: The National Broadband Plan*, GN Dkt. 09-51, at pp. 17, 49-52 (rel. Mar. 16, 2010) (“*National Broadband Plan*”); FCC News Release, “FCC Identifies Critical Gaps in Path to Future Universal Broadband,” Nov. 18, 2009.

³ See *AllVid NOI* at ¶ 14. See, e.g., Comments of Google Inc., at 3, MB Dkt. 10-91 (filed July 13, 2010) (“Google AllVid Comments”).

choices among user interfaces, features, and content sources.⁴ Google urges the FCC to expeditiously adopt a Notice of Proposed Rulemaking (“NPRM”) to implement rules for the AllVid gateway device so that consumers can control their own video experiences.

Development and widespread deployment of a consumer-friendly, fully functional, and innovative gateway device will require time for coordination and review, as well as for marketplace acceptance. Until that occurs, consumers deserve choice and increased innovation. Hence, the FCC should expeditiously implement proposals in its *CableCARD 4th NPRM* to improve the CableCARD regime and better fulfill Congress’ direction to foster a competitive marketplace for video navigation devices.⁵ Targeted action to promote both one- and two-way CableCARD devices until AllVid devices reach a critical mass will create incentives for manufacture and deployment of better CableCARDs, sustaining a strong viable option for consumers.

Commenters agree on many issues, including the need for consumers to be able to choose among retail video navigation devices.⁶ In any areas of disagreement, consumer choice, ease of implementation and use, and transparency should prevail.

All consumers, including those served by cable operators that have deployed switched digital video, are entitled to an effective method to select channels and utilize enhanced functionalities in their set-top boxes, regardless of whether the box is leased from a cable operator, a CableCARD-enabled television, or a competitive navigation device.⁷ By requiring cable operators to deliver a continuous signal so that consumers can use IP backchannel signaling and requiring non-discriminatory treatment regardless

⁴ See, e.g., Google AllVid Comment, at 3-4; Reply Comments of TiVo Inc., at 6-8, MB Dkt. 10-91 (filed Aug. 12, 2010); Reply Comments of Public Knowledge and New America Foundation, at 2-3, MB Dkt. 10-91 (filed Aug. 12, 2010).

⁵ See *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment*, CS Dkt. 97-80, Fourth Notice of Proposed Rulemaking, 25 FCC Rcd. 4303, ¶ 8 (2010) (“*CableCARD 4th NPRM*”); 47 U.S.C. § 549. See also Letter from Chairman Rick Boucher, House Subcommittee on Communications, Technology and the Internet, to Chairman Julius Genachowski, FCC (Sept. 30, 2010) (“*Boucher Letter*”) (urging the FCC to “adopt needed changes to the CableCARD regime”).

⁶ See, e.g., *FCC CableCARD Order May Reflect Industry Agreement on Many Issues*, Comm.Daily, Sept. 20, 2010. See also Comments of NCTA, App. A, CS Dkt. 98-70 (filed June 14, 2010); Letter from Neil M. Goldberg, Vice President and General Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, CS Dkt. 97-80, PP Dkt. 00-67 (filed Aug. 25, 2010).

⁷ See Comments of Consumer Electronics Association and the Consumer Electronics Retailers Coalition (CEA/CERC), at 15, CS Dkt. 98-70 (filed June 14, 2010); Comments of TiVo Inc., at 8-15, CS Dkt. 98-70 (filed June 14, 2010). See also *Boucher Letter* (recommending that the FCC “ensur[e] that all consumers have access to switched digital video signals without paying extra for any cable-supplied equipment that may be required to receive these signals” and “that consumers can, if they so choose, self-install CableCARDs and allow for point-of-sale provisioning by interested retailers”).

of the source of a consumer's navigation device, the FCC will empower consumers to choose the solution that best meets their needs. This approach also will help spur introduction of new inexpensive, consumer-friendly, retail device offerings and increase incentives for consumer purchase and use of these devices.⁸

Consumers also deserve transparent bills that contain enough granular data to allow them to understand the charges they are paying. Requiring cable operators to provide basic information on costs of leased devices – including of CableCARDS – on invoices will empower consumers to make sound economic decisions and choose the device that best suits their needs. By contrast, lack of billing transparency leads to irrational decisions and false market signals.⁹

Google applauds the FCC for its efforts to empower consumers as video convergence takes root. For these reasons, we urge swift action on the proposals in the *CableCARD 4th NPRM*, and adoption of an NPRM in the *AllVid Proceeding*.

Respectfully submitted,



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⁸ See, e.g., Comments of TiVo Inc. at 4-15, CS Dkt. 98-70 (filed June 14, 2010); Letter from Devendra T. Kumar, Attorney for TiVo Inc., to Marlene H. Dortch, Secretary, FCC, CS Dkt. 97-80, PP Dkt. 00-67 (filed Sept. 16, 2010).

⁹ See, e.g., Comments of Public Knowledge, Media Access Project and New America Foundation, at 13, CS Dkt. 98-70 (filed June 14, 2010) (citing story of Ester Stroger who paid thousands to lease her telephone, *Woman Paid Thousands to Rent Rotary Phone*, USA TODAY, Sept. 14, 2006, available at http://www.usatoday.com/news/offbeat/2006-09-14-phone_x.htm).