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October 6, 2010

ELECTRONIC FILING

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

Re: *Ex Parte*, CS Docket No. 97-80, PP Docket No. 00-67

Dear Ms. Dortch:

This is to inform you that on October 5, 2010, Matthew Zinn, Senior Vice President, General Counsel, Secretary & Chief Privacy Officer, TiVo Inc. ("TiVo") and the undersigned met with: (1) Joshua Cinelli, Legal Advisor to Commissioner Michael Copps; and (2) Rosemary Harold, Legal Advisor to Commissioner Robert M. McDowell. On October 6th, 2010, the same representatives of TiVo met with: (1) Eloise Gore, Acting Legal Advisor to Commissioner Mignon Clyburn; (2) Paul de Sa, Chief of the Office of Strategic Planning and Policy Analysis and Douglas Sicker, Chief Technologist; and (3) Brad Gillen and Krista Witanowski, Legal Advisors to Commissioner Meredith Attwell Baker.

We stressed arguments made by TiVo in the record in response to the *Fourth Further Notice of Proposed Rulemaking* in the above-captioned proceedings, FCC 10-61 ("*CableCARD FNPRM*"). Specifically, we stressed the following:

The Commission must ensure that cable subscribers who use retail set-top boxes have access to switched digital video (SDV) signals. TiVo emphasized that

the IP backchannel approach remains the best solution to ensure access to SDV signals in terms of performance, convenience to consumers, and cost-effectiveness. The attached document provides more detail regarding TiVo's position with respect to the various proposed solutions to ensure access to SDV channels.

With respect to consumer self-installation of CableCARDS, TiVo stressed that such installation must at minimum be an option for consumers who request it. Recent statements by Comcast regarding CableCARD installation in some of their markets indicate that self-installation is not burdensome and can be implemented by other operators. This is not surprising since CableCARDS were designed for consumer self-installation, and is consistent with TiVo's experience in providing support to its users – TiVo provides step-by-step instructions in all of its CableCARD products (see attached) on how to install CableCARDS. As a recent filing by a consumer in this proceeding noted, CableCARD installation is easy enough that any able-bodied adult should have no problems completing self-installation.¹ If a consumer does not want to do a self-install, they can pay for a “professional” installation.

With respect to pricing discrimination against consumers who use competitive devices, the Commission should adopt a clear rule preventing such discrimination along the lines of the rule proposed by CEA/CERC. TiVo appreciates Comcast's recent statements regarding pricing discrimination, and notes that the adoption of a rule preventing pricing discrimination would urge other operators to follow suit.

Finally, with respect to blanket waivers for HD-DTAs, TiVo noted that the record on this matter does not include any cost data to explain why CableCARD prices have not fallen despite the ongoing deployment of a high number of CableCARDS or to explain the cost differential between a DTA with integrated security and a DTA with separable security. TiVo also stressed the advantages of requiring common reliance on CableCARDS, which results in competition not only in the market for retail devices but also in the market for vendors supplying set-top boxes to cable operators.

Please direct any questions regarding this matter to the undersigned.

¹ *Ex Parte* Letter from Phil Werry in CS Docket No. 97-80 (Sep. 24, 2010).

Respectfully,



T. Devendra Kumar

Henry Goldberg
Devendra T. Kumar
Attorneys for TiVo Inc.

cc: Joshua Cinelli
Rosemary Harold
Eloise Gore
Paul de Sa
Douglas Sicker
Krista Witanowski
Brad Gillen

Solutions to Ensure Access to Switched Digital Video Signals

The Commission must ensure that cable subscribers who use retail set-top boxes have access to switched digital video (SDV) signals. Competition to cable-supplied equipment from retail navigation devices, as envisioned by Congress in Section 629 of the Communications Act, will not occur if users of competitive devices cannot access all the channels available to users of cable -provided set-top boxes.

TiVo supports a rule similar to that proposed by CEA/CERC that guarantees that users of competitive devices will have access to SDV channels:

[] A switched digital video operator shall not discriminate in terms and conditions, including with respect to channel availability, quality, customer service, and pricing, between subscribers with unidirectional digital cable products accessing switched digital video channels and subscribers with operator-supplied or bidirectional digital cable products, and shall not impose on subscribers with unidirectional digital cable products a separate charge for the means by which such access by such products is assured if no separate charge is imposed for providing access to switched digital video channels through operator-supplied equipment .

IP Backchannel

TiVo's IP backchannel approach remains the best solution – in terms of performance, convenience to the consumer, and cost-effectiveness – to ensure that users of retail set-top boxes can receive all linear channels which they have paid for, including channels delivered via SDV technology.

As TiVo has discussed in the record, an IP backchannel solution would not be difficult to standardize and deploy for both cable operators and competitive set-top box manufacturers. However, competitive device manufacturers need access to certain proprietary information, as well as a standardized approach to communicating with SDV servers that can be built in to devices. In order to ensure that an IP backchannel approach can be implemented and used by retail set-top boxes, the Commission should make clear that Section 76.1205 of its rules pertaining to the availability of interface information applies to signaling and other technical information required for communication between navigation devices and SDV servers in cable operator headends. This will ensure that all subscribers, including those that use retail navigation devices, can access channels delivered via switched digital video technology. Accordingly, TiVo recommends that the Commission amend Section 76.1205 as follows (revisions in italics):

§ 76.1205 Availability of interface information

Technical information concerning interface parameters that are needed to permit navigation devices to operate with multichannel video programming systems shall be provided by the system operator upon request in a timely manner. *Such technical information includes information needed to enable communications between the retail navigation device and the switched digital video server in the operator system headend to ensure that all retail navigation devices have access to all switched digital video channels.*

The *Report and Order* should state that the Commission expects that cable operators will work together with switched digital vendors and manufacturers of navigation devices on a continuing basis in an effort to adopt common standards for an IP backchannel approach.

Tuning Adapters

Should the Commission permit cable operators to continue to use Tuning Adapters to ensure access to SDV signals, cable operators that adopt this solution must: (1) ensure that tuning adapters are provided at no cost to the subscriber; (2) ensure tuning parity between the tuning adapters provided to subscribers and operator-provided navigation devices; and (3) support tuning adapters on a continuing basis. Tuning parity means that tuning adapters provided by cable operators must have at least the same number of tuners as the highest number of tuners in any operator-provided navigation device anywhere across the operator's footprint. For example, an operation should not be able to offer a six tuner DVR with SDV support but limit retail products to only four tuners.

The *Report and Order* should clarify that "support" includes an ongoing obligation to fix known problems, including software and other technical issues. Numerous comments filed by consumers in this proceeding, as well as reports by users of competitive devices such as TiVo, indicate that tuning adapters suffer from common problems such as channels dropping off, tuning adapters going into "sleep" mode, slow tuning to channels, etc. The *R&O* should make clear that cable operators should work with their vendors and manufacturers of navigation devices to promptly address such issues.

ATTACHMENT

**CABLECARD INSTALLATION INSTRUCTIONS PROVIDED BY
TIVO WITH ITS RETAIL DEVICES**



Installing your CableCARD™

Please save this sheet and present it to the installer upon arrival.
For installation help and more information, visit www.tivo.com/cablecard.

Before the installer arrives...

Here's what you need to do before the cable installer visits your home.

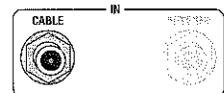
- 1 Set up your TiVo® Premiere or Premiere XL by following the instructions on the **Start Here** poster. **(You do not need a CableCARD for initial Premiere setup!)**
- 2 Complete the Premiere's on-screen Guided Setup. It's a good idea to complete Guided Setup a couple of days before the installer arrives to ensure that the TiVo Premiere receives any recent software updates. Once you complete Guided Setup, you'll be able to watch TV on non-encrypted channels while you wait for CableCARD installation.

Installation Instructions (for CableCARD Installer)

IMPORTANT: You will need one Multi-Stream CableCARD.

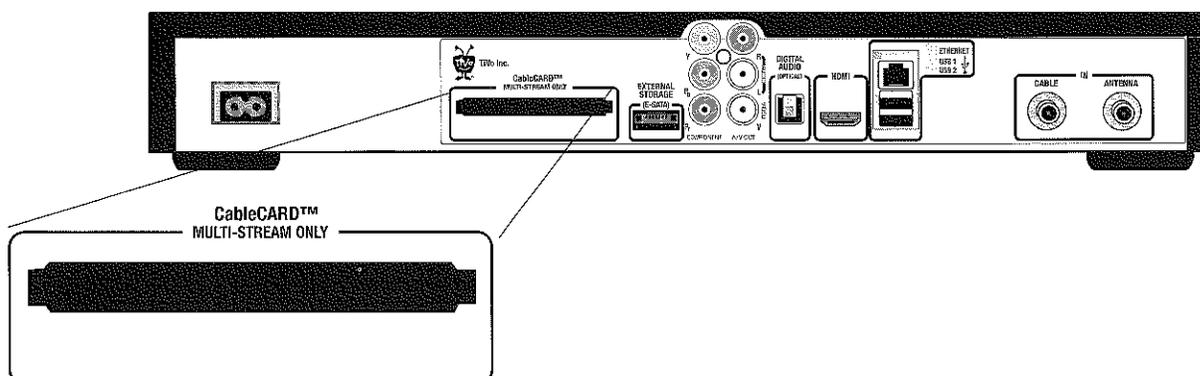
- 1 Write down the serial number of the Multi-Stream CableCARD decoder and any other information that the customer may need when contacting the cable provider in the future.

- 2 Confirm that the Coaxial cable from the wall is plugged directly into the **CABLE IN** jack on the back of the TiVo® Premiere.



- 3 Turn on the TV. Make sure that the correct TV input source is selected, so you see video from the TiVo Premiere. (If you're not sure, press the TiVo or GUIDE button on the TiVo® remote control to display a Premiere screen.)

- 4 Locate the CableCARD slot on the **back** of the TiVo Premiere.



Instructions continue on reverse.

Installation Instructions (continued)

5 Insert the Multi-Stream CableCARD™ decoder into the CableCARD slot.

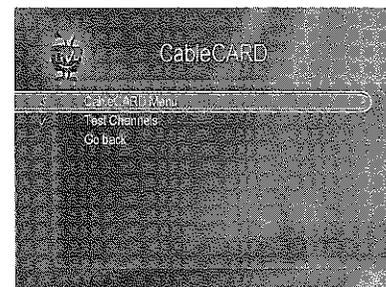
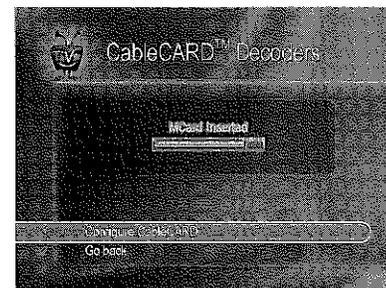
6 The CableCARD Decoder screen appears.

 **If you don't see the CableCARD Decoder screen**, follow the on-screen instructions until you do. (Guided Setup is in progress.)

7 From the CableCARD Decoder screen, select **Configure CableCARD**. Then select **CableCARD Menu**. From here, you can view data from the CableCARD, which you will need for activation.

 If you lose your place, press the TiVo button on the remote. From the **TiVo Central**® screen, select **Messages & Settings**, then **Settings**, then **Remote, CableCARD, & Devices**, then **CableCARD Decoder**.

If pressing the TiVo button does not take you to TiVo Central, remove the CableCARD and re-insert it to display the CableCARD screens.



8 Contact the cable company to activate or initialize the card.

9 Select **Configure CableCARD** from the CableCARD Decoder screen.

10 Select **Test Channels** to verify the card has been activated. **Be sure to test the customer's encrypted channels.** Performing a Channel Scan is not necessary.

11 Once you have confirmed that the customer is receiving all encrypted channels with optimal picture quality, you're finished!

SDOC-00111-004

