

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Nagra USA’s Request for Waiver of Sections)	MB Docket No. 12-242
76.1204(a)(1) and 76.640(b)(4)(ii)(A))	CS Docket No. 97-80
of the Commission’s Rules)	PP Docket No. 00-67
)	

**COMMENTS OF THE
ALLVID TECH COMPANY ALLIANCE**

The AllVid Tech Company Alliance was formed in response to the Commission’s proposal, in its National Broadband Plan, to support competitive navigation devices in the coming era of Internet Protocol (IP) delivery of MVPD programming and services. With its filing, Alliance member Nagra has highlighted yet again the need for the Commission to take action to *assure* in its regulations a competitive market for commercial, consumer-provided navigation devices.¹

In general, the Alliance supports the movement of the network interface with competitive devices from the device-specific “conditional access” (CA) interface to a “gateway” environment in which competitive and operator-leased devices operate interactively with home networks on a common system, through a standard IP interface. In joint industry meetings with the Media Bureau² and in filings, the Alliance has demonstrated that such an environment is entirely

¹ 15 U.S.C. § 549.

² See *In the Matter of 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 Dkt. No. 10-91, CS Dkt. No. 97-80, PP Dkt. No. 00-67, letter from Robert S. Schwartz, Counsel, AllVid Tech Company Alliance to Marlene H. Dortch, Sec., FCC (Oct. 6, 2011).

feasible through available technologies and techniques.³ It is not yet clear, however, that the Commission will require gateway devices to implement a standard IP-based interface that offers all linear cable channels, as does the CableCARD, *and* offers full interactive communication with the cable headend, including access to metadata as necessary to support a third-party licensed, device-generated guide. Such a standards-based interface is the Alliance’s understanding of what any IP-based Gateway can and must support if it is to replace a universal CA interface as the prime interface for competitive devices.

Therefore, the Alliance must oppose the Commission acting on this petition unless and until the Commission has acted to provide specific assurances referring to and protecting the use of open, nondiscriminatory standards in competitive devices. Clear and affirmative conditions on industry implementation of open, nondiscriminatory standards must be in place before the Commission takes favorable action in the instant proceeding.

I. A Successor To The CableCARD Interface Is Necessary.

The Alliance supports as necessary and inevitable the transition of the digital interface between MVPD systems and navigation devices from the point of CA to a defined and standard IP interface. Without a standard IP interface, navigation devices must be customized for particular MVPD networks. Entry that is fully competitive with leased devices would be

³ *In the Matter of 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 Dkt. No. 10-91, CS Dkt. No. 97-80, PP Dkt. No. 00-67, letter from Robert S. Schwartz, Counsel, AllVid Tech Company Alliance to Marlene H. Dortch, Sec., FCC (Sept. 20, 2012), with attached draft specifications (Sept. 20, 2011) and AllVid Tech Company Alliance, *Home Gateway Navigation Interface Referenced Standards and Draft Regulation*. (“Alliance Specifications”).

impossible, because any product seeking to work on *all* systems would have to be hardware-customized for each.⁴

CableCARDS provide a solution for linear channel content by allowing each cable operator to put its own decryption and authentication circuitry on a card, which delivers the content over a standard and secure interface that is licensed to competitive entrants by CableLabs. Because CableCARDS provide the only nationally standard interface for receiving all linear cable programming, reliance on it by cable operators as well as entrants remains essential. MVPD program transmission over linear channels, however, is likely to end in the next decade. A successor interface is necessary and the time to specify it is now:

- CableCARDS support interactive communication with cable headends but the only viable CableLabs licensing regime does not.
- Operators’ “switched digital” techniques rely on upstream channel requests, and thus require consumers to obtain a redundant operator-supplied box. Because the Commission deems CableCARDS an “interim” interface, in 2010 it stopped short of requiring operators to support a box-free “IP backchannel” solution – thus saving money for operators, at the expense of consumers.
- When cable operators move to full IP-based distribution, there will be no security rationale for use of either operator-provided devices or CableCARDS.⁵

Any action taken by the Commission in these dockets should be taken with this long-term reality and with the requirement of Section 629 to assure the commercial availability of

⁴ This point has been demonstrated recently as the Commission has struggled to accommodate Boxee products when MSOs move to basic tier encryption. *See In the Matter of Basic Service Tier Encryption, Compatibility Between Cable Systems and Consumer Electronics Equipment, Commercial Availability of Navigation Devices*, MB Dkt. 11-169, PP Dkt. 00- 67; CS Dkt. No. 97-80, letter from Julie M. Kearney, VP, Regulatory Affairs, CEA to Marlene H. Dortch, Sec. FCC (July 31, 2012) (“CEA July 31, 2012 Letter”).

⁵ *See* Steve Donohue, *Set-tops will become extinct, Time Warner Cable CEO Britt says*, FierceCable (May 21, 2012), <http://www.fiercecable.com/story/set-tops-will-become-extinct-time-warner-cable-ceo-britt-says/2012-05-21>.

competitive devices from manufacturers and vendors not affiliated with the MVDP clearly in mind.

II. The Alliance Supports A Gateway IP-Based Interface For Navigation Devices.

The Alliance's initial filing with the Commission made the case for gateways that rely on open private sector standards:

Only through such an open approach, based on private sector standards subject to reasonable and non-discriminatory licensing, can the objectives of Section 629 and of the National Broadband Plan be realized. *Ad hoc*, device-specific and proprietary approaches that can deliver some content that is also available as part of a multichannel offering from an MVPD are no substitute for the competition and innovation in devices that can actually receive and deliver MVPD offerings without the need for a leased, proprietary set-top box. Section 629 clearly requires the FCC's regulations to assure competition in the market for navigation devices that render and store MVPD programming offerings and services. Of all the approaches discussed in the records of the above captioned proceedings, only the IP gateway approach, as described in Section 4.2 of the National Broadband Plan, would accomplish this result.⁶

As numerous filings in the FCC's dockets have demonstrated, piecemeal approaches will not work.⁷ Because no standard, IP-level interface has been identified the Commission has taken longer than expected to act on its proposal to eliminate the ban on basic tier encryption. When innovators and consumers who would be harmed by encryption came forward to point out the utility that would be lost, the NCTA offered a series of "Band-Aid" proposals, none of which had

⁶ *In the Matter of 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 Dkt. No. 10-91, CS Dkt. No. 97-80, PP Dkt. No. 00-67, letter from AllVid Tech Company Alliance to Hon. Julius Genachowski, Chairman, FCC (Feb. 16, 2011) (citation omitted).

⁷ See the recounting of incomplete Commission solutions in CEA's Basic Tier Comments, *In the Matter of Basic Service Tier Encryption, Compatibility Between Cable Systems and Consumer Electronics Equipment, Commercial Availability of Navigation Devices*, MB Dkt. 11-169, PP Dkt. 00- 67; CS Dkt. No. 97-80, Comments of CEA (Nov. 28, 2011) ("CEA Basic Tier Comments").

the full support of its own members.⁸ As CEA has pointed out, a reference to an open and nondiscriminatory standard would have avoided this circumstance that has left competitive entrants at cable operators' mercy with varying proprietary, technical, and licensing approaches to what should be open and standard interfaces.⁹

III. The Commission Should Assure That The Interface From A Gateway Is Open, Non-Discriminatory, Fully Interactive And Fully Supportive Of Innovation In Competitive Devices Before It Assumes That An IP Interface Can Replace The Conditional Access Interface.

The Commission has recognized that CableCARD is a vital and necessary solution until a standards-based successor can be identified and implemented. In its Fourth Notice of Proposed Rulemaking and its Third Report & Order in Docket No. 97-80,¹⁰ the Commission required operators to support self-installation and required an end to discriminatory pricing. The Alliance has consistently advocated for the Commission to immediately incorporate into its regulations a reference to a successor to CableCARD. As demonstrated by the Alliance,¹¹ when moving from the CA to the IP level of support it will be possible to refer to technologies that are standards-based rather than proprietary to the cable industry and CableLabs. Consumers deserve to share in the benefits of technological progress. A successor interface can and should be superior to

⁸ *In the Matter of Basic Service Tier Encryption, Compatibility Between Cable Systems and Consumer Electronics Equipment*, MB Dkt. No. 11-169, PP Dkt. No. 00-67, letter from Michael K. Powell, NCTA to Hon. Julius Genachowski, Chairman, FCC (July 25, 2012); *see also* letter from Rick Chessen, NCTA to Marlene H. Dortch, Sec., FCC (June 29, 2012).

⁹ CEA Basic Tier Comments; CEA July 31, 2012 Letter.

¹⁰ *In the Matter of 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. No. 97-80, PP Dkt. No. 00-67, Fourth Further Notice of Proposed Rulemaking ¶ 16 (rel. Apr. 21, 2010); *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, CS Dkt. No. 97-80, PP Dkt. No. 00-67, Third Report and Order and Order on Reconsideration ¶¶ 1, 8, 20-21, 26-29 (rel. Oct. 14, 2010).

¹¹ *See* Alliance Specifications.

CableCARD in the scope of programming support, in interactivity, and in freedom from proprietary constraints. Thus, it should be a condition of favorable action that these features be *documented attributes of an industry-standard IP interface* from any gateway that would benefit from this petition.

IV. Any Successor Common Interface Should Support Competitive Interactive Features.

A successor interface must share with consumers the benefits of IP distribution as a successor to linear channel program delivery. Consumers should welcome IP delivery and a standard IP interface to the home network because such a connection is inherently seamless and interactive. Rather than bandwidth efficiency, which primarily benefits the operator, the main benefit *for the consumer* is the ability to view an interactive program guide that integrates offers of all programs and services (MVPD and non-MVPD) to which the consumer has rights.

The Alliance has already demonstrated that the necessary tools are at hand. The Alliance draft of a specification¹² for an IP-based common interface cites to private sector standards and to specifications that can easily be codified as standards, without any necessity for MVPD-specific licensing of devices.¹³ At an inter-industry panel discussion convened by the Media Bureau on Sept. 28, 2011, no question was raised about the technical underpinnings and availability of such a suite of private sector standards. Any action taken now by the Commission should be a step forward that includes assured support for a competitive device's own guide that

¹² *Id.*

¹³ The Alliance's accompanying draft regulation would, in such context, allow MVPDs to integrate the CA circuitry because the common interface would be moved to the IP level.

– just as operators’ guides can – can make an integrated offer of MVPD and other programs and services.¹⁴

V. A Solution That Leaves Gateway Support Of Competitive Devices As Proprietary And Discretionary Would Undermine Rather Than Succeed CableCARD.

The movement to IP distribution heralded by this application provides an opportunity for the Commission to favor innovation and consumer welfare without detracting from operators’ commercial development. In the transition from analog to digital program distribution, no “two-way” solution was ever successfully implemented within the MVPD framework. In this successive transition from linear channel delivery to IP delivery, the shared attributes of commercial and home networks afford the Commission another chance to enable consumers to obtain devices that rely on an interface that is a secure gateway to all network programming and services.

The Nagra application shows that such an opportunity is at hand. Any action on this petition, however, should be taken only in accordance with Congress’s instruction to assure in its regulations and in consultation with private sector standards bodies the commercial availability of navigation devices from manufacturers and vendors that are independent of the service provider.¹⁵ The Alliance opposes the Commission taking action until it has provided an

¹⁴ Operators have stated publicly their intent to make their combined MVPD and over-the-top (“OTT”) service offerings, which will be available “in the cloud,” accessible via a single guide. Competitive products, using licensed third party Guides and MVPD service metadata, should have the same competitive opportunity. Such legitimate competition for guide-integration of the OTT offerings would be forestalled only by operator-imposed limitations on the capabilities of retail devices. Such a result would be anticompetitive and contrary to the intention and requirements of Section 629.

¹⁵ 47 U.S.C. § 549. The Alliance notes that achieving this result for cable services fulfills only part of the mandate of Section 629, which applies to *all* MVPD programming and services. The Alliance urges the Commission to proceed with a gateway rulemaking as envisaged in the National Broadband Plan and the AllVid NOI.

assurance and made a *finding* that the IP-based interface from a gateway device receiving the benefit of this or any such waiver will be open, nationally standard, non-discriminatory, and fully supportive of two-way operation with the cable headend, including support for a device-generated, interactive program guide.

Respectfully submitted,

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