

# ALLVID

## Tech Company Alliance

February 18, 2014

Hon. Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12th St. SW  
Washington, DC 20554

Re: Video Device Competition, MB Docket No. 10-91; Commercial Availability of Navigation Devices, CS Docket No. 97-80; Compatibility Between Cable Systems and Consumer Electronics Equipment, PP Docket No. 00-67; Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, MB Docket No. 14-16

Dear Mr. Chairman:

Based on progress in private sector standards, a nationally standard IP-based interface as required by Section 629 of the Communications Act<sup>1</sup> can now be readily defined, discussed on the record, and implemented. The Commission has already conducted a Notice of Inquiry to receive public comment about a successor to the CableCARD regime based on the AllVid gateway concept of supporting competitive devices via such an IP interface that at the operator's discretion can be entirely "hardware free."<sup>2</sup> Such an approach would also allow cable operators who wish to continue to provide navigation devices to re-integrate their conventional conditional access technology, because it would move the competitive interface to the "IP" level.

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<sup>1</sup> 47 U.S.C. § 549.

<sup>2</sup> Cable operators have stressed that the movement to IP distribution is inevitable and should be accompanied by an IP-based interface, but have not committed to a standards-based approach to support retail devices as required by Section 629. *See, e.g.,* Fierce Cable, *Time Warner Cable moving to all-IP over 'some number of years,' CEO Britt says*, <http://www.fierceiptv.com/story/time-warner-cable-moving-all-ip-over-some-number-years-ceo-britt-says/2012-08-02> (Aug. 2, 2012); FierceCable, *Gateways obviate the boxed-in feeling for an entertained home*, <http://www.fierceiptv.com/story/gateways-obviate-boxed-feeling-entertained-home/2012-07-10> (July 10, 2012); FierceCable, *Humax could challenge Cisco, Motorola, Pace, Arris gateways with MMC Technology acquisition*, <http://www.fiercecable.com/story/humax-could-challenge-cisco-motorola-pace-arris-gateways-mmc-technology-acq/2012-07-09> (July 9, 2012); GIGAOM, *Did The Cloud Just Kill The Set-Top Box?*, <http://gigaom.com/video/cloud-set-top-box/> (June 16, 2011).

The progression of technology, as discussed in your recent Silicon Flatirons speech,<sup>3</sup> requires a successor to a CableCARD interface, which is based on the technology of an earlier era. Even the National Cable & Telecommunications Association (NCTA), in a February 5 letter to you that praised Alliance member TiVo for its accomplishments using CableCARDS,<sup>4</sup> observed in the same letter “how rapidly the marketplace is moving beyond CableCARD technology.”<sup>5</sup>

Sixteen months ago the Commission, in citing technical change as a reason to allow cable operators to encrypt basic tier programming, agreed with CEA and the Alliance that a successor to CableCARD is required.<sup>6</sup> Now is the time for the Commission to act on this observation. As the Alliance recounted in an *ex parte* letter of August 8, 2012:<sup>7</sup>

- Internet Protocol (IP)-based distribution will become the predominant technique for delivering MVPD programming and services to consumers.
- Private sector industry standards as referenced by the Digital Living Network Alliance (DLNA) will be the predominant IP-based means of distributing MVPD programming and services to and through home networks.
- The suite of DLNA-referenced and other technical standards identified in the draft regulation filed by the Alliance on September 20 comprises a clearly feasible, national, and nationally portable interface for any MVPD to support the operation of consumer devices, directly or through the provision of a “gateway” device that provides an interface as described by these standards.

The proprietary “app” approach described in NCTA’s letter, by which only selected devices are connected on a system-specific basis, serves simply to further

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<sup>3</sup>FCC, FCC Chairman Tom Wheeler Remarks at Silicon Flatirons, <http://www.fcc.gov/document/fcc-chairman-tom-wheeler-remarks-silicon-flatirons> (Feb. 10, 2014).

<sup>4</sup> Letter from Michael K. Powell to Hon. Tom Wheeler, Chairman, FCC, MB Dkt. No. 1091, CS Dkt. No. 97-80, MB Dkt. No. 07-269, at 5 (Feb. 5, 2014).

<sup>5</sup> *Id.* at 6.

<sup>6</sup> *In the Matter of Basic Service Tier Encryption*, MB Dkt. No. 11-169, PP Dkt. No. 00-67, Report and Order at ¶ 35 n.162 (rel. Oct. 12, 2012).

<sup>7</sup> Letter from Robert S. Schwartz, Counsel, AllVid Tech Company Alliance to Marlene H. Dortch, Secretary, FCC, *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; *Commercial Availability of Navigation Devices*, CS Dkt. No. 97-80 (Aug. 8, 2012).

entrench cable operators' methods and devices as the only means by which consumers can access and experience the programming and services to which they subscribe. This is not the innovation and choice that Section 629 was intended to foster. Indeed it would be a step back from the limited choices that consumers have today.<sup>8</sup> If anything, NCTA's compilation of non-standard, isolated approaches to connection illustrates how far the Commission remains in the IP era from fulfilling Congress's instruction to assure, "in consultation with appropriate industry standard-setting organizations," the commercial availability of retail equipment used by consumers "to access multichannel video programming and other services offered over multichannel video programming systems."<sup>9</sup>

The FCC should take steps now to assure that consumers have the choice of accessing their cable programming through innovative user interfaces not dictated by cable operators. The 2010 AllVid Notice of Inquiry<sup>10</sup> compiled a sufficient record for the Commission to proceed now with a Notice of Proposed Rulemaking to address the specific technical and policy issues raised four years ago. Given the progress on technical standards, there are few serious objections about the technical feasibility of a successor gateway interface as described in the National Broadband Plan<sup>11</sup> and the 2010 NOI. Rather, as expressed in NCTA's February 5 letter, the primary objections now seem to be that (1) the incumbent MVPDs who still by any measure dominate the market for navigation devices are resistant to the idea of commercial competition not specifically controlled and licensed by themselves, and (2) the CableCARD interface pertains only to cable operators.<sup>12</sup>

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<sup>8</sup> Consumers are able to access linear programming in a competitive user interface today using CableCARD-reliance devices. As has been noted on many other occasions, the partial nature of the "Plug & Play" solution arrived at in 2002, Commission waiver grants for "switched digital" and other departures, and the vacatur by the Court of Appeals of the Second Report & Order leave the CableCARD solution further in need of a successor. *See 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, Petition for Rulemaking (July 16, 2013); *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 ¶ 9 (rel. Oct. 14, 2010).  
<sup>9</sup> 47 U.S.C. § 549(a).

<sup>10</sup> *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, Notice of Inquiry (rel. Apr. 21, 2010) ("NOI").

<sup>11</sup> FCC, *Connecting America: The National Broadband Plan*, at 36, 50-52, Sections 3.2, 4.2 & Recommendation 4.13 (rel. Mar. 16, 2010).

<sup>12</sup> The Commission granted interim forbearance to DBS operators in the 1998 First Report and Order. *Implementation of Section 304 of the Telecommunications Act of*

Neither NCTA nor any MVPD can make a serious case that current Commission regulations will be in compliance with Section 629 in the IP era already upon us. Nor is DBS forbearance, which was based on 1998 facts and priorities, engraved in stone. The Commission proposed a gateway solution in 2009, tabled the AllVid approach in 2010, and agreed in 2012 that a successor to CableCARD is necessary. A rulemaking is necessary in 2014.

Respectfully submitted,

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*1996; Commercial Availability of Navigation Devices*, CS Dkt. No. 97-80, Report and Order ¶¶ 8-9 (rel. June 24, 1998). Cable operators have cited this forbearance in three unsuccessful appeals to the D.C. Circuit, but have never petitioned the Commission to repeal it.