**Before the**
**Federal Communications Commission**
**Washington, DC 20554**

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

To: The Commission

# COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION


**TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

Danielle Coffey
Vice President, Government Affairs

Rebecca Schwartz
Director, Regulatory and Government Affairs

**TELECOMMUNICATIONS INDUSTRY ASSOCIATION**
10 G Street N.E.
Suite 550
Washington, D.C. 20002
(202) 346-3240

*Its Attorneys*


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## EXECUTIVE SUMMARY

TIA vigorously supports the policy goal of the "AllVid" *Notice of Inquiry*: The promotion of video device competition that will "spur investment and innovation, increase consumer choice, allow unfettered innovation in … delivery platforms, and encourage wide broadband use and adoption." The *Notice*'s premise of a failed retail market, however, is faulty. Today, the marketplace is meeting the Commission's investment, innovation, and consumer choice goals with a wide variety of devices and services, including two-way connectivity to "over-the-top" Internet video. A mandated AllVid approach thus is unnecessary, and it runs the risk of burdening both industry and consumers with costs and complexities that are not justified by the purported benefits.

Although TIA does not share the view that the Commission must adopt AllVid regulations to achieve the policy goals underlying the *Notice*, if the Commission does act, any regulations must be practical, based on a keen understanding of the complex and rapidly evolving marketplace, and otherwise designed to benefit consumers. The Commission must assess carefully what actions are necessary and realistic and should avoid imposing burdens that would hamper the industry from engaging in the pro-consumer competition, investment, and innovation the *Notice* intends to promote. Specifically, as discussed in detail herein, any requirements should be flexible and forward-looking, any deployment timetable should be realistic, and cable operators should be permitted to offer integrated AllVid-based devices and phase out support for CableCARDs.

Finally, if the Commission imposes AllVid, it should not saddle consumers or the industry with the duplicative costs of deploying AllVid devices while being required to continue supporting the CableCARD regime. It would be redundant and unnecessarily costly to both the

industry and consumers for the Commission to maintain both regimes, thus frustrating the Commission's goals of maximizing investment and expanding consumers' video programming options. If the Commission adopts AllVid, it should direct its resources to facilitating deployment of this new regime (and allow industry to do the same), rather than diluting resources with a backward-looking focus on the admittedly unsuccessful CableCARD.

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To: The Commission

**COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

The Telecommunications Industry Association ("TIA")[1] hereby responds to the above-captioned *Notice of Inquiry ("Notice")*, in which the Commission seeks comment on updating its implementation of section 629 of the Communications Act of 1934, as amended (the "Act").[2] TIA vigorously supports the policy goal of the *Notice* to promote video device competition that will "spur investment and innovation, increase consumer choice, allow unfettered innovation in … delivery platforms, and encourage wide broadband use and adoption."[3] A mandated "AllVid"

[1] TIA is the leading trade association for the information and communications technology ("ICT") industry. TIA's 600 member companies manufacture or supply the products and services used in the provision of broadband and broadband-enabled applications. With roots dating back to 1924, TIA works to promote the deployment of fixed and mobile broadband, mobile wireless, information technology, networks, cable, satellite and unified communications systems. TIA members' products and services empower communications in every industry and market, including healthcare, education, security, public safety, transportation, government, the military, the environment and entertainment.

[2] *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 Docket No. 10-91; CS Docket No. 97-80; PP Docket No. 00-67, Notice of Inquiry, FCC 10-60 (rel. Apr. 21, 2010) ("Notice"); 47 U.S.C. § 549.

[3] *Notice*, ¶ 1.

solution is entirely unnecessary, however, because the marketplace is meeting this goal today with a wide variety of devices and services, including two-way connectivity to "over-the-top" Internet video. Although TIA does not share the view that the Commission must implement the AllVid concept to achieve the policy goals underlying the *Notice*, if the Commission does act, any regulations must be practical, based on a keen understanding of the complex and rapidly evolving marketplace, and otherwise designed to benefit consumers. The Commission must assess carefully what actions are necessary and realistic and should avoid imposing burdens that would hamper the industry from engaging in the pro-consumer competition, investment, and innovation the *Notice* intends to promote. Specifically, any requirements should be flexible and forward-looking, any deployment timetable should be realistic, and cable operators should be permitted to offer integrated AllVid-based devices and phase out support for CableCARDs.

## I. A MANDATED "ALLVID" SOLUTION IS UNNECESSARY BECAUSE THE MARKETPLACE IS MEETING CONSUMER DEMAND AND IMPORTANT COMMISSION GOALS.

Section 629 of the Act charges the Commission with the responsibility to "assure the commercial availability . . . of converter boxes and other equipment used to access multichannel video programming."[4] The Commission has interpreted this provision to mean that Congress intended to foster vigorous competition among devices purchased at retail to be used with multichannel video programming distributor ("MVPD") services.[5] Based on its determination that the current retail market for MVPD devices falls short of Congress's intent, the Commission

[4] 47 U.S.C. § 549(a).

[5] *Notice*, ¶ 4. The Commission has expressed concern that retail navigation devices cannot provide functionalities beyond those of set-top boxes leased by cable operators; that retail devices cannot access switched digital video ("SDV") and other interactive services; and that retail devices cannot be used with the services of competing MVPDs. *Notice*, ¶¶ 15-17; Federal Communications Commission, Connecting America: The National Broadband Plan 18, 35, 50-51 (2010) ("*National Broadband Plan*").

has proposed the AllVid concept.[6] The premise of a failed retail market is faulty, however – the marketplace already is meeting consumer demand. The AllVid approach thus is simply unnecessary, and it runs the risk of burdening both industry and consumers with costs and complexities that are not justified by the purported benefits.

### A. Today's Marketplace Offers a Wide Variety of Video Devices and Services, Including Two-Way Functionality Through "Over-the-Top" Connectivity.

TIA shares the Commission's vision of a world in which consumers reap the benefits of vigorous investment and innovation, and urges the Commission to acknowledge that consumers live in this world *right now*. Without a regulatory mandate, many consumer electronics manufacturers and service providers are innovating to meet consumer demand for cutting edge products and services. Cable, satellite, and IPTV providers compete vigorously for MVPD customers, and consumers can purchase or inexpensively lease an expanding array of smart video devices that include set-top boxes, digital video recorders ("DVRs"), gaming consoles, and a variety of desktop and mobile computers.[7]

Importantly, the array of consumer choices in the marketplace extends to a growing number of smart video devices that enable consumers to access content from the Internet and other non-MVPD sources.[8] Cable customers can use retail consumer electronic devices that add Internet and any other content source they desire to the MVPD content they receive.[9] Examples of powerful set-top and similar devices abound. Roku's set-top box enables consumers to access

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[6] *Notice*, ¶¶ 22-23.

[7] *See, e.g.*, Jose Fermoso, *Video-on-Demand Coming to Wii in 2009,* Wired: Gadget Lab, dec. 29, 2008, *avail. at* http://www.wired.com/gadgetlab/2008/12/video-on-demand/.

[8] Nothing in these Comments, however, should be taken to imply that over-the-top Internet content or Internet-connected consumer electronics devices are subject to section 629. Only MVPD content should be considered subject to that provision.

[9] Comments of NCTA, *International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act*, NBP Public Notice #27, GN Docket No. 09-47, filed Dec. 22, 2009, at I ("NCTA NBP PN#27 Comments").

Netflix and other videos through a "channel store."[10] HDTVs and Blu-ray players from Samsung, Sony, LG and Vizio support Yahoo's TV Widgets, which enable customer access to Netflix, Twitter and Flickr.[11] Sezmi recently launched a product that integrates live cable feeds, broadcast channels, video on demand and Internet video using a combination of broadcast spectrum and a high-speed Internet connection.[12] Companies like Cisco, Intel and Motorola have moved to develop gateway and other devices featuring Ethernet and other connectivity so as to facilitate sharing of Internet video content among home network devices.[13] Even satellite MVPD networks, which are inherently limited in their ability to support interactivity,[14] have moved quickly to ensure their customers can supplement their MVPD video offerings with "over-the-top" Internet video content.[15] Industry consortia such as the Digital Living Network Alliance (DLNA) and the RVU Alliance are developing interoperable solutions for bringing Internet video and other content to televisions and other devices in the home.[16] Consumers

[10] *See* Todd Spangler, *Roku Plugs "Channel Store" Into Internet Set-Top*, Multichannel News, Nov. 23, 2009.

[11] Rob Pegoraro, Verizon Adding Widgets, Web Video to FiOS TV, Wash. Post, July 15, 2009.

[12] Todd Spangler, *Sezmi Tells L.A. Story*, Multichannel News, Nov. 16, 2009.

[13] *See, e.g.*, Comments of Motorola, *Implementation of Section 304 of the Telecommunications Act of 1996*, CS Docket No. 97-80, filed June 14, 2010 ("Motorola CableCARD Comments"), at 11 (describing Motorola devices for networking video among a subscriber's set-top boxes and DVRs); Comments of Cisco Systems, Inc., *International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act*, NBP Public Notice #27, GN Docket No. 09-47, filed Dec. 22, 2009 ("Cisco NBP PN#27 Comments"), at 2-5 (describing, *inter alia*, Cisco's next generation video architecture, which features a home gateway that enables consumers to access video, voice over IP and high-speed data services).

[14] Comments of DirecTV, Inc., *International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act*, NBP Public Notice #27, GN Docket No. 09-47, filed Dec. 22, 2009 ("DirecTV NBP PN#27 Comments"), at ii, 9 (describing satellite services as "one-way" with limited upstream signaling capabilities).

[15] DirecTV, for example, began adding IP connectivity for home networking to each of its high-definition set-top boxes five years ago, and more than a year ago began offering services via broadband-connected boxes, such as video on demand and hundreds of interactive applications featuring Flickr, webcams, NFL scores, weather and other content. DirecTV NBP PN#27 Comments at 3.

[16] More information regarding DLNA and RVU Alliance is available at http://www.dlna.org/about_us/about/ and http://www.rvualliance.org/resources/faq.

enjoy multiple choices to connect to the Internet with or without set-tops or other intervening devices.[17]

In sum, consumers today have a wide and expanding choice in video devices, delivery technologies and content sources, including both programming from competing MVPDs and from the Internet. Accordingly, the Commission need not mandate development of the AllVid concept in order to ensure that consumer demand and Commission policy goals are met.

## II. ANY REGULATORY REQUIREMENTS INTENDED TO SPUR THE MARKET FOR SMART VIDEO DEVICES SHOULD BE FLEXIBLE AND FORWARD LOOKING.

Although TIA maintains that an AllVid mandate is unnecessary to meet consumer demand and Commission goals, TIA recognizes that the Commission nonetheless may intervene. In that case, TIA urges the Commission to "first, do no harm." Learning from the lessons of CableCARD and the IEEE 1394 mandate, the Commission's approach should aim for maximum flexibility and should recognize and facilitate the continuing evolution of the wide ecosystem of video services and devices that enable consumer choice. This includes promoting innovation at both the "edge" of the network and at its core – or at least ensuring that any further action in this area does not impede innovation among network, application and device companies.

### A. Consumers Benefit When Manufacturers Have Maximum Flexibility to Innovate and Differentiate Their Products.

Affording manufacturers flexibility to respond to consumer demand can yield several types of consumer benefits, as discussed above. Specifically, such flexibility is critical to ensuring that manufacturers can make use of platform-specific approaches to providing the upstream and downstream signaling capabilities needed to enable consumers to interact with

[17] IMS Research, Press Release, Internet Video: Connected TVs Play Catch Up (Dec. 4, 2009), *avail. at* http://wwwimsresearch.com/press_release_details.html&press_id=1199; Brad Stone, *A New Set-top Device to Put Web Video on TV*, New York Times, Dec. 8, 2009, at B10.

video content.[18] Flexibility also enables manufacturers to engage in the close coordination with network owners needed to ensure a simple and reliable user experience over diverse delivery technologies.[19] It also makes it possible for manufacturers to engage in broader collaborations with others in the video ecosystem (*e.g.,* the DLNA and RVU consortia) to bring consumers more of what the Internet has to offer.[20] Finally, manufacturers (including many of TIA's members) compete vigorously with each other to ensure that their set-top, computing, gaming, DVR or other smart video devices are the ones that consumers and other customers choose.[21] The Commission should therefore recognize that some of the benefits consumers currently enjoy are possible only to the extent manufacturers have flexibility to innovate and differentiate their products.

### B. Overly Prescriptive Regulations Will Hamstring Innovation and Increase Consumer Costs.

To maximize flexibility, the Commission should avoid technical mandates that are more prescriptive than necessary to achieve its underlying policy objectives. Picking technologies, as implementation of the AllVid could entail, carries with it the risk that the Commission will fail to predict which technologies will most enhance consumer welfare.[22] In the context of this

[18] NCTA NBP PN#27 Comments at iii; Cisco NBP PN#27 Comments at 5-6.

[19] NCTA NBP PN#27 Comments at iii.

[20] DirecTV NBP PN#27 Comments at 4-5.

[21] The eagerness of device makers to include Ethernet capabilities in video devices underscores the power of consumer demand in this area. Manufacturers properly anticipated consumers' desire to share content over home networks (using connectors other than the FCC-mandated IEEE 1394) and to make use of Internet content and applications no matter which device they may be using or prefer. The Commission benefits consumers to the extent it allows manufacturers, freely and flexibly, to respond to consumer demand.

[22] This risk results not from any failure of judgment by Commission but from the inherent uncertainty associated with attempting to choose technical approaches without being able to anticipate superior approaches that may emerge or chart with certainty the path that consumer needs and preferences will take with new technology. *See* Wall Street Journal, *Thinking About Tomorrow*, Jan. 28, 2008, *avail. at* http://online.wsj.com/article/SB120119369144313747.html ("Making predictions is a hazardous business. There will, no doubt, be technologies emerging that none of us can even imagine right now. And how much any technology changes people's lives depends on the quirks of personal behavior. The usual early adopters will eagerly take up some innovations, and youngsters - as ever - may latch on to them before their parents. Some new inventions will slip into our routines almost without our knowledge.")

proceeding, the Commission threatens to make consumers worse, rather than better, off if it compounds the risks of a decision to mandate AllVid (which is unnecessary) by implementing it in a rigid way that precludes companies from employing approaches that may be equally or more effective than what the Commission envisions.

The Commission's experience with respect to its IEEE 1394 mandate illustrates the risks of choosing specific technologies,[23] while providing insights as to how the Commission can meet its policy goals without technology mandates.[24] Recently, in response to requests from multiple device makers, the Commission agreed to waive the 1394 requirement for boxes that include alternative IP-based home networking interfaces instead of 1394 interfaces.[25] The Bureau reasoned that IP communication over Ethernet and Wi-Fi has been deployed widely and that it satisfies the Commission's "baseline" policy objective of enabling set-tops to output video in a format that can be received by other devices, thereby allowing consumers to enjoy the full range of cable services using those devices.[26] The Bureau's reasoning mirrors the TIA argument in the *Fourth CableCARD FNPRM* proceeding that the FCC-mandated 1394 interface failed in the marketplace "[y]et, cable operators are still required to include the 1394 interface on all HD boxes provided to their customers, adding costs to the finished product and exemplifying how technology mandates can ultimately harm the consumer."[27] By analogy, implementing the

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[23] *See, e.g.*, Motorola CableCARD Comments at 7-8 (describing the 1394 requirement as obsolete and costly).

[24] Section 76.640(b)(4)(ii) of the Commission's requires cable operators to include an IEEE 1394 interface on all high-definition set-top boxes the operator distributes to customers. 47 C.F.R.§ 76.640(b)(4)(ii). As the Media Bureau recently explained, the requirement "was created to set a baseline for connectivity to provide home networking and digital recording functionality to cable subscribers in a secure, digital format. At the time of adoption, the IEEE 1394 interface was the only digital video interface available for consumer devices that supported recording devices and networking. Since the time of adoption, however, most home networking devices have migrated toward technologies based on IP." *Requests for Waiver of Section 76.640(b)(4)(ii) of the Commission's Rules*, DA 10-1094, rel. June 18, 2010 ("*Waiver Order*"), ¶ 2.

[25] *Waiver Order*, ¶ 1.

[26] *Id.*, ¶ 8.

[27] *See generally Implementation of Section 304 of the Telecommunications Act of 1996*, Fourth Further Notice of Proposed Rulemaking, CS Docket No. 97-80, rel. Apr. 21, 2010 ("*Fourth FNPRM*"); Comments of TIA,

AllVid concept through similarly narrow technology mandates raises the likelihood that the Commission will be asked by multiple parties to waive or amend such mandates – or deny consumers the benefits of equivalent or superior technical solutions.[28]

Thus, if the Commission moves forward to implement the AllVid concept, TIA urges the Commission to avoid a technology mandate altogether and instead articulate a functional "baseline" to achieve stated policy objectives. Having set that baseline regarding what the technology should do as a practical matter, the Commission should allow manufacturers, consumers, and other interested parties to use the marketplace to settle on technologies that meet (or exceed) that baseline.

## III. IF THE COMMISSION IMPLEMENTS ALLVID, IT MUST ESTABLISH A REALISTIC TIMETABLE AND TRANSITION PLAN.

Although TIA does not share the view that the Commission must implement the AllVid concept to achieve the policy goals underlying the *Notice*, in the event the Commission does act here, any approach taken must not only be flexible, but also feasible within any mandated timeframe. In this vein, the Commission should revisit its proposal to complete AllVid implementation by December 31, 2012 – a timeframe that is unrealistic given the number of

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*Implementation of Section 304 of the Telecommunications Act of 1996*, CS Docket No. 97-80, filed June 14, 2010 ("TIA CableCARD Comments") at 4.

[28] The Commission has asked if 100 Base TX Ethernet would be an appropriate physical layer standard for the AllVid adapter. *Notice*, ¶ 26. As recognized in the *Notice*, Ethernet is the *de facto* physical standard for data transmission, including home networking. *Id.* For this reason, Ethernet may be an appropriate initial choice for the AllVid adapter. However, the Commission should not limit the adapter to this standard, as 100 Base TX (like all standards) eventually will become obsolete. Indeed, there is some concern that a 100 Base TX Ethernet network would be strained to provide the six streams of HD video the NOI proposes at the expected quality of service ("QoS"), while still functioning as a home broadband network. This is because 100 Base TX offers 100Mbps, and six streams of HD MPEG-2 signals without QoS would consume approximately 90 Mbps, leaving only 10% of capacity for non-video uses. In contrast, recently-announced MoCA 2.0 envisions actual throughputs of up to 800 Mbps with QoS. *See* Introducing MoCA2.0, http://www.mocalliance.org/MoCA_2/index.php?PHPSESSID=8f621d2fba2edb0e3cee6386423161c1 (last visited July 6, 2010). Rather than lock innovators into a particular standard, therefore, the Commission should provide the flexibility to adopt superior technologies as they emerge.

diverse interests involved and the complex technical issues around which these parties must develop consensus.

The technological challenges the industry is already tackling to foster consumer choice in video services and devices are complex and significant. Chief among them, despite billions of dollars of private investment in video and broadband delivery technologies, is that these platforms are not yet all IP-based.[29] For now, continued innovation in these technologies requires either platform-specific approaches[30] or time-consuming development of platform-agnostic standards. In order to achieve the Commission's goal of a standardized AllVid home-facing connector that will work with any smart video device, all relevant stakeholders will need to collaborate and agree on an extensive number of issues. The standard-setting process thus cannot realistically result in deployment of AllVid adapters by the deadline proposed in the *Notice*.

Specifically, the parties at the table must include MVPDs using different technologies, including extensive cable plant that is in various states of migration to digital and is otherwise technically heterogeneous. In addition, given the breadth of the "smart video device" category, consumer electronics and IT manufacturers that would need to participate in standards development include makers of set-top boxes, game systems, DVRs, home theaters, desktop and mobile computers and perhaps others that will emerge as standards are developed. Content owners may vary both in terms of the technical specifications they prefer to differentiate their offerings from competitors and in terms of their desired intellectual property protection.

[29] *See* Motorola CableCARD Comments at 15-16 (advocating measures to encourage the digitization of cable systems); Cisco NBP PN#27 Comments at 5; *see also id.* at 6 (noting that, although satellite and IPTV providers use digital networks, cable networks are still transitioning to digital).
[30] *Id.* at 5-6.

The breadth of issues that these diverse parties would need to agree on also is substantial, as the *Notice* acknowledges. Even if one assumes that the communications protocol for AllVid is IP,[31] manufacturers, service providers and content producers would need to develop consensus around at least seven categories of technical issues: (1) the configuration of equipment (*e.g.*, "set-back" or gateway device); (2) method for verifying what services are ordered and paid for; (3) type of physical connection (*e.g.*, Ethernet); (4) encryption and authentication protocol; (5) a method for gateways to "tell" other devices on home networks what services are available from the gateways; (6) content encoding format; and (7) related intellectual property requirements.[32] And the *Notice* also acknowledges that additional issues may need to be addressed along the way, such as how to prioritize multiple video streams over a home's gateway.[33]

Based on the number of issues, diverse parties and options already identified by the Commission – to say nothing of the issues that inevitably emerge as AllVid is developed – the 30-month deadline proposed in the *Notice* seems completely unrealistic.[34] Few technology mandates imposed by the Commission have been developed and implemented in such a short timeframe.[35] Establishing the standards required to meet the FCC's AllVid goals will take much

[31] *See, e.g.*, Comments of Intel, *Implementation of Section 304 of the Telecommunications Act of 1996,* CS Docket No. 97-80, filed June 14, 2010 ("Intel CableCARD Comments") at 5 (urging Commission to require IP as home networking protocol).

[32] *Notice*, ¶¶ 25-32.

[33] *Notice*, ¶¶ 33-36.

[34] In the MVPD context, Cisco recently estimated the timeframe of 30-42 months for developing and implementing standards that would allow existing retail devices to access SDV programming using an IP back-channel. Comments of Cisco, *Implementation of Section 304 of the Telecommunications Act of 1996,* CS Docket No. 97-80, filed June 14, 2010, at 10. However, the SDV/IP back-channel context arguably is less complex than that required to develop the AllVid concept, both in terms of the parties involved (AllVid would encompass satellite and IPTV MVPDs, unlike the IP back-channel) and in terms of the amount and diversity of programming (cable operators have migrated only less popular programming to SDV, whereas AllVid would presumably encompass all MVPD programming); *see also* Intel CableCARD Comments at 5 (expressing concern that difficulty reaching consensus regarding communications protocols could delay distribution of video among home network devices).

[35] For example, it took more than six years, after repeated deadline extensions, to implement CMRS number portability, despite the fact the Commission predicted that "none of [the technical] difficulties are insurmountable" when it set the initial three-year deadline. *See Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8432-8440, ¶¶ 154-166 (1996); *see also Verizon Wireless's*

longer than the 30 months between the filing of these Comments and December 31, 2012. And this says *nothing* about the additional time needed for such purposes as equipment manufacturing, testing, coordination with service providers' unique and varied billing and customer service systems and any necessary consumer education. Some might urge the Commission to hold firm to the proposed deadline, but this approach risks setting consumers and the industry on a path in which consumer expectations and business planning activities are left unsettled by repeated deadline extensions. TIA urges the Commission to instead consider prior experience with standard-setting timeframes and develop a more realistic deadline for AllVid implementation. This approach would reduce regulatory uncertainty and ensure that consumers and the industry do not incur unnecessary costs or burdens that would divert resources from investment and innovation.

## IV. THE COMMISSION SHOULD PERMIT CABLE OPERATORS TO OFFER INTEGRATED ALLVID-BASED DEVICES.

Consistent with its position that the Commission should afford consumers and manufacturers flexibility to select technologies that satisfy a functional "baseline," TIA urges the Commission not to foreclose cable operators' ability to deploy AllVid devices that integrate security and smart video device navigation features. The *Notice* suggests that retail devices should be able to access all of the MVPD services that leased set-top devices are able to access.[36] Thus, the Commission's policy baseline appears to entail ensuring robust consumer choice

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*Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation,* Memorandum Opinion and Order, 17 FCC Rcd 14972, ¶ 1 (2002). Likewise, the Commission's efforts to iron out wireless "E911" location accuracy persist well beyond the initial five years the Commission anticipated. *See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676, 18712, ¶ 71 (1996); FCC, *Public Safety and Homeland Security Bureau Seeks to Refresh the Record Regarding Service Rules for Wireless Enhanced 911 Phase II Location Accuracy and Reliability,* PS Docket No. 07-114, Public Notice (rel. Nov. 6, 2009).

[36] *Notice,* ¶ 15.

among leased and retail video device options. Satisfying this objective does not require and, indeed, cautions against an integration ban.

Integration bans undermine consumer welfare by increasing costs and denying consumers the efficiencies of integrated capabilities.[37] The flurry of requests for waiver of the CableCARD integration ban are in no small measure driven by operators' desire to avoid such costs and facilitate a speedier transition to all-digital cable systems.[38] Some MVPD subscribers will choose to purchase AllVid-based smart video devices at retail, welcoming various aspects of product differentiation and the ability to switch among MVPD services using the same device. Other subscribers may be extremely cost-sensitive and prefer a monthly charge for a streamlined leased device rather than the up-front cost of a retail device.

Allowing integrated AllVid devices will not undermine an AllVid regime's benefits to retail consumer electronics manufacturers or frustrate the Commission's goals. As a technological matter, the AllVid concept contemplates employing a commonly-used, standardized interface to connect with the home network and smart video devices. Thus, smart video devices will be able to connect to AllVid devices in a manner that is both technically and practically simple. This common interface will, therefore, obviate the need for "common reliance" that the Commission deemed necessary in the CableCARD context. Finally, marketplace conditions and trends in market demand underscore that cable operators will have the incentive to support retail, AllVid-based smart video devices, even without an integration ban. The market imperative is for all companies to deliver consumers an expanding range of video options or risk losing those subscribers entirely over time.

[37] *See e.g.,* Cisco NBP PN#27 Comments at 7.
[38] *Fourth FNPRM,* ¶ 22.

## V. THE COMMISSION SHOULD PHASE OUT CABLECARD SUPPORT REQUIREMENTS IF AND WHEN ALLVID IS DEPLOYED.

TIA urges the Commission, with respect to whatever deadline it decides to impose, to ensure that it does not saddle consumers or the industry with the duplicative costs of deploying AllVid devices while being required to continue supporting the CableCARD regime. Such redundancies are anathema to the Commission's goal of maximizing the investment and innovation that will accelerate expansion of consumer choice.

As the *Notice* and National Broadband Plan underscore, the AllVid concept is intended to *replace* the existing CableCARD regime in enhancing consumers' ability to obtain retail navigation devices from sources other than MVPD providers.[39] Phasing out CableCARD support requirements would be consistent with consumer desires and the Commission's views regarding the appropriate disposition of the CableCARD regime; by the Commission's own analysis, this regime has been unsuccessful.[40] In any event, consumers today demand two-way products and services that one-way retail CableCARD devices do not support.[41] Nor is continuation of the CableCARD rules technically necessary for the development or deployment of AllVid adapters.

To avoid a "flash cut" to AllVid that could exacerbate consumer confusion, TIA recommends that that the Commission phase out CableCARD support requirements beginning at the conclusion of the industry's standard-setting activities. Phasing out these requirements at this stage of the AllVid implementation process would avoid redundant obligations while affording service providers and others in the industry time to educate consumers on the nature and benefits of AllVid.

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[39] *Notice*, ¶¶ 2-3; *National Broadband Plan* at 51 (emphasis added).

[40] *See generally Notice*, ¶¶ 15-16; *National Broadband Plan* at 18, 35, 50.

[41] Comments of NCTA, *Implementation of Section 304 of the Telecommunications Act of 1996*, CS Docket No. 97-80, filed June 14, 2010, at 4-5.

It would be redundant and unnecessarily costly to both the industry and consumers for the Commission to maintain both regimes. Subjecting companies to overlapping (and potentially conflicting) requirements would frustrate the Commission's goals of maximizing investment and expanding consumers' video programming options. If the Commission adopts AllVid, it should direct its resources to facilitating deployment of this new regime (and allow industry to do the same), rather than diluting resources with a backward-looking focus on the admittedly unsuccessful CableCARD.

## VI. CONCLUSION

For the foregoing reasons, TIA encourages the Commission to move forward in this proceeding consistent with the recommendations set out above.

Respectfully submitted,

**TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

By: */s/ Rebecca Schwartz*

Danielle Coffey
Vice President, Government Affairs

Rebecca Schwartz
Director, Regulatory and Government Affairs

**TELECOMMUNICATIONS INDUSTRY ASSOCIATION**
10 G Street N.E.
Suite 550
Washington, D.C. 20002
(202) 346-3240

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