

VIDEO DEVICE COMPETITION: NOTICE OF INQUIRY

COMMENT DUE DATES

Comments: July 13, 2010
Reply Comments: August 12, 2010

CABLECARD PROCEEDING: FOURTH FURTHER NOTICE OF PROPOSED RULEMAKING

COMMENT DUE DATES

Comments: June 14, 2010
Reply Comments: June 28, 2010

The Federal Communications Commission has announced the comment due dates for two upcoming proceedings discussed in the National Broadband Plan: (1) the Fourth Further Notice of Proposed Rulemaking (“Rulemaking”) in the *Implementation of Section 304 of the Telecommunications Act of 1996: Competitive Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment* proceeding; and (2) the Notice of Inquiry (“Inquiry”) in the *Video Device Competition: Implementation of Section 304 of the Telecommunications Act of 1996: Competitive Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment* proceeding. The Rulemaking seeks changes to the current CableCARD rules and the Inquiry seeks comments on alternatives to the CableCARD.

Background – Section 629 of the Telecommunications Act of 1996, directed the Commission to implement regulations to ensure the availability of navigation devices that consumers could use to access multi-channel video programming distributor (“MVPD”) services. In 1998, the Commission adopted a First Report and Order to implement Section 629. The 1998 Order required MVPDs to provide a “conditional access element” apart from its set-top box that would enable outside manufacturers and retailers to develop and sell market navigation devices that would not affect or impair the security of the MVPDs’ systems. The Commission left it up to the industry to develop such a device. In 2003, the Commission adopted a modified version of standards negotiated between the National Cable Telecommunications Association (“NCTA”) and the Consumer Electronics Association (“CSA”). The standards were the basis for the CableCARD, a security device supplied by the MVPD that could be inserted into any set-top box or television and could unencrypt the MVPDs video programming. To promote the implementation of the CableCARD, the Commission implemented an “integration ban” requiring MVPDs to use CableCARDS in their own leased set-top boxes.

The Commission does not believe that the goals of Section 629 have been met. The Commission issued the Rulemaking and Inquiry to improve the use of CableCARDS, even as the industry works to develop an alternative, more successful device.

The Rulemaking – the Commission seeks comment on changes to the CableCARD in hopes of making the device more “consumer-friendly” while the Commission awaits the outcome of a pending rulemaking designed to find its replacement. The Commission’s goal is to decrease the consumer costs associated with use of the

CableCARD. To effectuate this goal, the Commission seeks comment on proposed rules to: (1) require equivalent prices for CableCARDS in cable-operated boxes and retail set-top boxes; (2) simplify the installation process; (3) require cable operators to offer CableCARDS that are capable of tuning multiple streams; and (4) streamline the CableCARD certification process.

The Commission further seeks comment on a proposed rule that would specify the functionality of the IEEE-1394 interface on set-top boxes and permit other interfaces, including Ethernet, Wi-Fi, or USB on all high-definition set-top boxes. The Commission also requests comment on proposed rule changes to further encourage cable operators to use their capacity more efficiently by transitioning their systems to all-digital. The Commission has issued a number of waivers of the integration ban requirement to certain MVPDs to provide them with an economic incentive to transition their systems to all-digital. The Rulemaking does not address any pending waivers or discuss future requests for waiver of the integration ban. However, in a limited exception to the ban designed to further encourage the transition, the Commission proposes to permit operators to place into service new one-way navigation devices that perform conditional access and other functions in a single integrated device, but do not perform recording functions. Operators would still be required to offer CableCARDS to customers for digital video recording devices and two-way navigation devices, but would be granted this limited exception.

The Inquiry – the Commission seeks to find an alternative solution to the CableCARD. The Commission requests comment on methods for developing a more competitive marketplace for set-top video devices that are compatible with all MVPD services. In particular, the Commission requests comment on ways that electronics manufacturers could offer ubiquitous set-top video devices without coordinating or negotiating with MVPDs.

As a starting point for discussion, the Commission suggests the concept of an adapter that would replace the current CableCARD. The proposed adapter would be provided by the MVPD and would be capable of performing tuning, security decryption, and navigation functions. The adapter would also provide a common interface for connection to additional devices. While the adapter and navigation device would be able to communicate with one another, the adapter would be specific to the MVPD and able to communicate with the particular MVPD's network. While the Commission seeks comment on the adapter proposal, the Commission also requests comment on alternative solutions. Moreover, since the adoption of a new device will likely result in the phase out of the CableCARD, the Commission seeks comment on the future of the CableCARD.

If you have any questions, please contact any member of the firm's [Communications Law Group](#).

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