

## **New CableCARD Rules In Effect—Operators Must Provide Customers Additional Rate Information, Offer Self-Installation, and Provide Certain “Bring Your Own Box” Discounts**

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As we discussed in our earlier advisory [here](#), last year the Federal Communications Commission (FCC) adopted additional obligations for cable operators related to their support for customer use of retail CableCARD devices. The effective date of some of these new rules had been deferred pending approval by the Office of Management and Budget. That approval has now occurred and additional rules described below became effective Aug. 8, 2011. On that date, the FCC Enforcement Bureau issued an Enforcement Advisory advising cable operators that it will “strictly enforce” the new rules.

The newly-effective rules include:

- Operators that currently permit self-installation of any equipment must proactively offer new CableCARD customers the option to self-install their CableCARDS in most devices; operators that do not permit equipment self-installs must allow self-installation of CableCARDS by Nov. 1, 2011;
- Operators that offer any set-top boxes included in the base price of a service bundle or promotion must offer a credit to customers that use retail CableCARD devices and not take the set-top box from the operator; and
- Operators must provide conspicuous notice to customers in the annual notice and in the operator’s website or billing inserts of the rate they charge for CableCARDS in retail devices and those included in leased set-top boxes, and also the details of the “bring your own box” credit described above.

The Enforcement Advisory omits two details regarding the newly-effective rules. First, it fails to mention that the obligation to offer self-installation only applies to devices whose manufacturer provides specified levels of support for self-installation; however, operators may choose for administrative convenience not to have their customer service representatives quiz the customer on their type of device and instead issue CableCARDS, for a charge, to any customer that requests them. Second, the Advisory fails to mention that operators may use bill inserts as an alternative to posting information on their website. We do not believe these omissions were intentional and the published rules should control.

### **Additional rules effective prior to Aug. 2011**

The following is a summary of other requirements from the 2010 order that had already taken effect:

- CableCARD rental fees must be uniformly priced throughout a cable system, including an explanation to the effect that customers who lease operator-provided set-tops that include a CableCARD also pay this same rate for their CableCARD as those customers using retail devices;
- Operators may not impose any service fee on a customer using a retail device that is not assessed on customers using operator-provided devices;
- Installers must bring the number of CableCARDS requested by the customer.
- CableCARDS provided to customers must be in good working condition and must be compatible with the customer’s device;
- Operators must provide M-Cards unless the customer requests an S-Card; and

- Operators using switched digital video must provide accurate information to customers about the ability of retail devices to tune switched channels, and must ensure that tuning adapters support at least four tuners.

#### **Future requirements**

- All remaining cable operators must implement a CableCARD self-install option (effective Nov. 1, 2011); and
- Operators must ensure that all two-way HD set-top boxes comply with an open industry standard that provides for service discovery, video transport, and remote control command pass-through for home networking (effective Dec. 1, 2012).

Davis Wright Tremaine, LLP has assisted numerous operators with compliance with these new rules, including drafting new annual notice language and self-installation guidelines. Please let us know if you would like help or have any questions.

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