

**STATEMENT OF
COMMISSIONER MEREDITH A. BAKER**

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

I support these two items to examine steps to improve how our existing CableCARD regime works and to begin an exploration of a long-term replacement for the CableCARD. The Commission's actions today signal something that consumers and consumer electronic manufacturers decided some time ago: the retail CableCARD market has not worked as we intended. There are, however, over 400,000 retail CableCARDS deployed, and consumers are still buying retail CableCARD devices. I, therefore, support the effort in the Notice to consider steps to streamline and improve the provisioning and installation of CableCARDS to benefit those consumers. Given our decision to ultimately replace the CableCARD regime, I hope we can avoid taking any steps that would significantly increase the implementation and operational costs on cable operators, consumer electronic manufacturers, or consumers to support CableCARD devices.

As we consider a long-term solution, I hope that we recall valuable lessons from the CableCARD regime. First, our technological mandates come with significant costs. By one estimate, the cost of CableCARD compliance for the cable industry alone – costs passed on to cable consumers – has totaled nearly one billion dollars.¹ Second, we should be careful not to mandate particular technological solutions that would freeze into place the current state of technology. We need to craft flexible rules that foster continued investment and innovation both on the network and device level. We should also not inhibit the ability of MVPDs to continue to invest in innovative devices and offerings. There are numerous promising collaborative efforts in home network and industry standard setting bodies to provide consumers with greater flexibility and options in how to view their video content. Hopefully, that spirit of collaboration between MVPD and consumer electronic companies will carry over to our consideration of a post-CableCARD regime.

Our long-term objective for these proceedings should be clear from the start. We have an obligation under section 629 of the Act to “assure the commercial availability” of retail navigation devices to access MVPD programming. Section 629's statutory mandate intended to provide consumers navigation device options at retail, not dictate how they view video programming at home. Nor did section 629 intend to compel consumers to purchase navigation devices. We should be mindful that not all consumers want the latest technology: over 100 million televisions in cable households today are not connected to a set-top box at all. Consumers may also prefer certain conveniences—lower upfront costs, ease of installation and upgrade—that come with leasing devices.

¹ Letter from Neal M. Goldberg, Vice President and General Counsel, National Cable & Telecommunications Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, CS Docket No. 97-80, at 14 (December 22, 2009).

On the other end of the spectrum, we have also seen a great increase in interest and availability of Internet-delivered video programming from multiple vendors through dedicated devices, video game consoles, and Blu-ray players. Consumer electronic manufacturers are providing direct Internet connectivity to the television; cable, satellite and telco video providers are innovating and investing in home network solutions, over-the-top video, and greater interactivity and functionality in leased devices. Importantly, the bulk of this new investment and innovation is occurring in the competitive market without any Commission intervention, separate and apart from our CableCARD regime.

Lastly, the National Broadband Plan framed this issue as one of broadband adoption. I agree that our set-top box policy does relate to broadband, but I believe that it relates primarily to broadband deployment, not adoption. In order to provide higher speeds and more advanced broadband offerings, cable operators need to reclaim spectrum dedicated to video programming without eliminating the hundreds of video channels available to subscribers today. We should be vigilant that our set-top box policy does not unintentionally frustrate the efforts of cable operators investing in their next-generation broadband networks by putting up roadblocks to an affordable transition to all-digital operations or raising uncertainty about investment in more efficient technologies like switched digital video.