December 5, 2013

The Honorable Greg Walden, Chairman
U.S. House of Representatives
Committee on Energy & Commerce
Subcommittee on Communications and Technology
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Walden:

The undersigned organizations write to express their concern that H.R. 3196, sponsored by Rep. Latta (R-OH) and Rep. Gene Green (D-TX), would drive up cable bill prices, reduce consumer choice, and slow down video innovation.

Viewers today pay too much for cable. There are many reasons that this overpayment occurs. High programming costs, unwanted bundles, and a lack of competition make watching TV a costly affair. But some of the most pernicious drivers of costs to consumers are below-the-line fees—unadvertised charges that cable operators slip onto viewers' bills to hide the true cost of a cable subscription.

Most customers who receive digital cable programming and services today are subject to a very large, below-the-line fee of this sort: a monthly charge to rent a set-top box from their cable operator. This can add $10, $20 or even more every month to a customer's bill above and beyond the advertised monthly service rate. Congress wisely decided in 1996 that cable customers should have a choice in the matter, and should be able to buy their own set-top boxes rather than pay these exorbitant rental fees.

Section 629 of the Communications Act directs the FCC to adopt standards to this effect. The FCC must ensure that customers can buy their own video equipment that is capable of receiving and decrypting cable signals – from manufacturers and retailers that aren't affiliated with the cable operators themselves – and avoid the hidden cost of equipment rentals. This means that customers should be able to buy their own set-top boxes, but also be able to access cable content with compatible TVs and devices such as DVRs, Blu-Ray players, and video game consoles. In addition to eliminating an unnecessary line item from consumer's bills, Section 629 is designed to ensure that cable customers benefit from a competitive set-top box market that spurs innovation in the form of new features, new devices, and improved interfaces.

H.R. 3196 would greatly reduce the FCC's ability to protect consumers, promote competition and spur innovation in the video device market. The FCC rules implementing Section 629 require cable operators to separate the reception and decryption functions in their own equipment, and then to make that decryption equipment available to other manufacturers of video devices. The separate, standard "conditional access" decryption platform today is referred to in the industry as a CableCARD, but the rules don't specify any particular technology. They just require a standard platform that all video devices can use to decrypt and interface with cable programming.

Cable customers benefit greatly from these rules today. This principle of "common reliance" on standardized decryption methods ensures that all devices will work on a cable system: the devices cable operators make available to their customers <u>and</u> the devices made by other manufacturers. Common reliance is a structural guarantee that cable operators will not roll out new features or services on their systems that will only work with the cable operator's own set-top boxes.

The common reliance principle bans the integration of reception and decryption functions in a single cable operator device, because such integration could freeze out the makers of competitive devices. The FCC rules, however, do not prevent cable operators from upgrading their networks, providing new services, offering new content, or rolling out new devices of their own. It merely ensures that all cable services and features remain available to consumers who choose not to rent a set-top box from their cable provider.

H.R. 3196 would undermine the existing CableCARD system that so many viewers depend on today, and by stripping the FCC's authority to adopt common reliance rules, makes it difficult for the FCC to ever implement the mandates of Section 629 using any technological standard. Although the bill appears narrow and technical, it would make it much more difficult for the Commission to carry out its statutory directive under Section 629.

Because H.R. 3196 would harm consumers, eliminate competition, and hold back video innovation, we urge Members of Congress to oppose it.

Sincerely,

Consumer Action
Consumers Union
Free Press
National Consumers League
Open Technology Institute at the New America Foundation
Public Knowledge

cc: The Honorable Anna Eshoo, Ranking Member