



March 7, 2014

The Honorable Greg Walden  
Chairman  
Subcommittee on Communications and Technology  
2182 Rayburn Building  
Washington, DC 20515

The Honorable Anna Eshoo  
Ranking Member  
Subcommittee on Communications and Technology  
241 Cannon Building  
Washington, DC 20515

Re: STELA Re-Authorization Legislation

Dear Chairman Walden and Ranking Member Eshoo:

The undersigned entities write to urge the Committee to reject any proposals to weaken Section 629 of the Communications Act<sup>1</sup> in its STELA<sup>2</sup> reauthorization process. Rather, Congress and the FCC should maintain and strengthen, not eviscerate, the law's requirement for equal treatment of consumers who purchase competitive commercial devices.

Section 629, which was conceived in this Subcommittee, requires the FCC to assure in its regulations that standards-based technologies support independently procured commercial products in rendering multichannel video programming distributors' ("MVPD") programming and services to consumers. FCC and court records demonstrate that in the absence of a requirement to rely on the same technologies made available to competitive entrants, cable operator support for competitive device entry was grossly inadequate.<sup>3</sup> Now, in a crucial transition to "IP"-based technologies, we urge the

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<sup>1</sup> 47 U.S.C. § 549.

<sup>2</sup> Satellite Television Extension and Localism Act of 2010, Pub. L. No. 111-175, 124 Stat. 1218 (2010).

<sup>3</sup> *Charter Communications v. FCC*, 440 F.3d 31, 40-44 & n.10 (D.C. Cir. 2006); *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, Second Report and Order, 20 FCC Rcd. 6794 ¶ 39 & n.162 (Mar. 17, 2005); Comments of the CEA on NCTA Downloadable Security Report in FCC CS Dkt. No. 97-80 (Jan. 20, 2006); Letter from Julie M. Kearney, Sr. Dir. and Reg. Counsel, CEA, to Marlene H. Dortch, Sec., FCC, in FCC CS Dkt. No. 97-80 (Mar. 23, 2006); Letter from Robert S. Schwartz, Constantine Cannon LLP, Counsel, to CEA to Marlene H. Dortch, Sec., FCC, in FCC CS Dkt. No. 97-80 (Mar. 24, 2006); Letter from

Subcommittee not to forestall competition through an amendment to STELA such as the language of HR 3196. This provision would allow cable operators to rely on IP technologies that are incompatible with competitive devices and user interfaces.

This is the wrong time to step backward. Cable operators are moving to IP distribution, but the industry has not committed to a standards-based approach to support retail devices as required by Section 629.<sup>4</sup> Instead, operators have licensed select devices only for partial and proprietary access. This is not the consumer choice that Section 629 was intended to foster. Common reliance on standards-based technologies is essential to assure that competitive commercial products are available as a real alternative to the set-top boxes leased by system operators, and therefore that innovation in set-top devices and user interfaces can flourish.<sup>5</sup>

The FCC has conducted an Inquiry about a successor to CableCARD that would be based on a standards-based IP gateway concept of supporting competitive devices. We ask this Subcommittee not to block a decision-making process that could allow manufacturers, retailers, and consumers to realize the benefits of a healthy set-top device market, free from cable industry control and akin to the market that has developed for competitively provisioned viewing devices like smartphones and tablets.

Respectfully submitted,

Public Knowledge  
National Consumers League  
Free Press Action Fund  
Consumer Action  
Writers Guild of America, West  
AllVid Tech Company Alliance

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Julie M. Kearney, Sr. Dir. and Reg. Counsel, CEA, to Marlene H. Dortch, Sec., FCC, in FCC CS Dkt. No. 97-80 (Aug. 7, 2006); Letter from Todd G. Hartman, Vice President, Associate General Counsel and Chief Compliance Officer, Best Buy Co., Inc., to Marlene H. Dortch, Sec., FCC, in GN Dkt. No. 09-47, 09-51, 09-137, and CS Dkt. No. 97-80 (Jan. 27, 2010).

<sup>4</sup> See, e.g., Fierce Cable, *Time Warner Cable moving to all-IP over 'some number of years,' CEO Britt says*, <http://www.fierceiptv.com/story/time-warner-cable-moving-all-ip-over-some-number-years-ceo-britt-says/2012-08-02> (Aug. 2, 2012); FierceCable, *Gateways obviate the boxed-in feeling for an entertained home*, <http://www.fierceiptv.com/story/gateways-obviate-boxed-feeling-entertained-home/2012-07-10> (July 10, 2012); FierceCable, *Humax could challenge Cisco, Motorola, Pace, Arris gateways with MMC Technology acquisition*, <http://www.fiercecable.com/story/humax-could-challenge-cisco-motorola-pace-arris-gateways-mmc-technology-acq/2012-07-09> (July 9, 2012); GIGAOM, *Did The Cloud Just Kill The Set-Top Box?*, <http://gigaom.com/video/cloud-set-top-box/> (June 16, 2011).

<sup>5</sup> See [letter](#) of Feb. 16, 2011, MB Docket No. 10-91; CS Docket No. 97-80; PP Docket No. 00-67, from the AllVid Tech Company Alliance to Julius Genachowski, Chairman of the FCC, at 4 – 6, describing the need for and benefits to competition of such a standard IP interface.