

EXPLODING CEA's MYTHS ABOUT THE "INTEGRATION BAN"

In a recent letter to *The Wall Street Journal*, and in a variety of other public policy statements, the Consumer Electronics Association ("CEA") argues against changing the FCC's current "integration ban" rule that would impose on consumers more than \$600 million a year in unnecessary set-top box costs beginning this summer. CEA's case is built upon myths and false premises and their constant repetition by CEA makes them no more accurate. The facts below show why the FCC should grant the cable industry's request for relief from the integration ban.

CEA Myth #1: *"Since Congress first mandated a competitive cable equipment market more than a decade ago, consumers have been waiting for the cable industry to comply with the law...."*

Reality: The cable industry has complied with the law and has done everything the FCC has requested in implementing the Congressional mandate to facilitate a retail market for devices that can access cable services without requiring a set-top box provided by the cable operator. It developed a so-called "CableCARD" which contains the security functions of cable set-top boxes; it has provided these cards to customers who purchase "digital cable ready" devices at retail; and it has provided a card – more than 200,000 to date – to every consumer who asks for one. The cable industry hasn't asked the FCC to eliminate or delay the requirement that it continue to support the use of CableCARDS in retail "digital cable ready" devices, and it will continue to support their use even in the absence of an "integration ban."

Furthermore, the cable industry negotiated a landmark "plug and play" agreement with the consumer electronics ("CE") industry so that consumers can purchase one-way digital cable ready televisions and other devices that can receive cable's digital video services (including premium services such as HBO and Showtime and high definition video services) without the need for a set-top box. Cable has worked with Microsoft, Real Networks and others to develop a "digital cable ready" PC." Cable has worked with leading CE manufacturers to develop two-way CableCARD-enabled products which are on their way to the retail market and were exhibited at the 2006 Consumer Electronics Show. These facts provide vivid evidence – not mere rhetoric – that the cable industry strongly supports and is helping to facilitate a retail market for "digital cable ready" devices.

CEA Myth #2: *"After numerous delays, including extensions granted by the FCC..., cable companies are still chaining their customers to technology of the past and requiring them to pay higher fees for the privilege of using their pre-1996 first generation technology ..."*

Reality: To the contrary, it is the CE position that would "chain customers to technology of the past." Cable is seeking deferral of the so-called "integration ban" which requires that cable operators reengineer the set-top boxes that they lease to consumers so that they do not combine ("integrate") security and non-security functions in the same box, but instead use CableCARDS. This will lead to unnecessary costs for both consumers and cable operators – to the tune of \$600

million per year – with no consumer benefit, since a cable operator leases boxes for use only on his own system and those leased boxes do not require the portability that CableCARDS enable.

The FCC twice unanimously deferred implementation of the integration ban for sound public policy reasons, more specifically because there is new “downloadable security” technology on the horizon which the FCC (and the CE industry) has recognized is less expensive and more efficient than CableCARDS. Downloadable security – which can be used by CE manufacturers and cable operators – will offer consumers the choice of less expensive, more consumer-friendly equipment both at retail and from their cable providers. Cable is simply asking the FCC to delay the ban until this new technology can be deployed (or until December 31, 2009 if downloadable security is not available by then). But it’s CEA, not cable, that favors making cable operators and their suppliers take resources *away* from work on downloadable security in favor of “first generation” and outdated CableCARD technology.

CEA Myth #3: *“If the FCC grants yet another waiver, then cable companies will continue to use their proprietary set-top boxes safely within their monopolies, while eschewing consumer choice, innovation, and technological advancement.” “Consumers pay for these actions through higher monthly costs and limited choice.”*

Reality: Cable doesn’t have a “monopoly” on devices used to access cable services since any cable customer can buy a “digital cable ready” product enabled by CableCARDS – and more than 200,000 customers already have done so. Over 520 models of such devices have been developed for retail sale, including the new TiVo Series3 HD DVR and, soon, Microsoft Vista PCs. CEA has stated that there are over five million digital cable ready sets in the market. In addition, under the CableLabs CHILA license, interactive CableCARD-enabled consumer electronics products are being built and were exhibited at the 2006 Consumer Electronics Show.

As for consumer choice, downloadable security promises more choices and lower prices for cable set-top boxes while the integration ban is a formula for increased prices. If the “integration ban” is put in place before downloadable security is ready, cable operators will have to reengineer their leased boxes to use CableCARDS – a completely unnecessary expense, because leased boxes are not meant to be portable. The result: cable companies and consumers will pay more money for no additional benefit.

CEA Myth #4: *The integration ban is “the only thing that will assure that competitive products receive equal treatment on cable systems.”*

Reality: CEA argues that the only way to make sure cable companies will support CableCARDS in retail devices – and therefore “consumer choice” – is to require that cards be included in leased devices as well. In fact, the FCC rules *already* require cable companies to make CableCARDS work. Cable companies are doing so, and the FCC has said if CE companies or consumers have complaints, the agency will take appropriate action. *No formal complaints have been filed to date.* More significantly, cable companies have a strong economic incentive to make CableCARDS work in digital cable ready devices: if cable companies do not support their

customers' use of "cable ready" devices, dissatisfied consumers have the ability to switch to cable's satellite or telephone company competitors.

CEA Myth #5: *The cable industry has waged a "war against competitive cable boxes" and wants to "revers[e] Congress's effort to liberate consumers forced to lease cable boxes but it ignores the consumer benefits such competition would bring."*

Reality: With the exception of certain TiVo digital video recorders, the consumer electronics industry isn't building "competitive cable boxes" because they aren't profitable. As *Consumer Reports* said in its November 2006 issue, it makes no sense for most consumers to buy DVRs ("cable ready" or not), let alone "Plain Jane" digital boxes, when they can rent them from their cable company for a low, government-regulated monthly fee and exchange those boxes for more advanced models when they become available. CE companies *are* building "cable ready" HDTV sets – a device that no cable operator provides. As noted, cable companies already have provided more than 200,000 CableCARDS and will continue to support "cable ready" retail devices. Requiring cable companies to put CableCARDS in their leased boxes, however, would waste money, delivering only the same features consumers receive today, while delivering *no* consumer benefit.

CEA Myth #6: *"The cable industry wants to preserve the lucrative income stream from renting consumers set-top boxes."*

Reality: By law, the price to lease a cable set-top box is regulated by the government. In any event, cable operators repeatedly have said they'd like nothing more than to get those equipment expenses off of their books in order to focus on developing and deploying innovative services to consumers.

CEA Myth #7: *"Congress wanted consumers to have a choice so it mandated a competitive cable box market. Cable proposed 'CableCARD' as a solution. Like the child killing its parents and claiming special favors as an orphan, the cable industry now criticizes the very solution it proposed simply because its efforts to delay were successful."*

Reality: The "orphan" line may sound catchy, but it's an inaccurate analogy. The cable industry is not seeking to "kill" CableCARDS. Cable developed CableCARD technology as a means to ensure that consumers could purchase a set-top box or other digital cable ready device at any retail outlet and use it to receive digital video service provided by any cable operator in the country. Cable supports CableCARDS and will continue to do so. By definition, "leased" boxes are not sold at retail and are not portable so they don't need a CableCARD. Requiring CableCARDS in the boxes that cable operators lease does nothing more than impose an economic penalty on consumers that opt to lease rather than buy a digital cable ready device – an affordable option that the CE industry apparently would like to deny to consumers. Congress said that the FCC shouldn't chill innovation or freeze technology in implementing the statute's "commercial availability" mandate. The CableCARD was the best technology available at the time the rules were being devised. But today, many years later, all parties – the FCC, the

consumer electronics industry, cable, Verizon, public interest groups, and others – agree that downloadable security is a less expensive, more efficient, and better solution.

CEA Myth #8: *“Cable even argues that newer technologies will better advance competitive equipment, but refuses to deploy this technology unless – you guessed it – its waiver request is granted.”*

Reality: Cable operators never have said they would refuse to deploy downloadable security without a waiver of the integration ban. If cable has to reengineer its leased set-top boxes to accommodate CableCARDS, however, that will divert resources from a focus on downloadable security, leading to delays that hurt cable, the consumer electronics industry, and consumers alike. Cable already has invested more than \$30 million in a downloadable security solution. It’s important to focus on that effort.

CEA Myth #9: *“Cable makes wildly exaggerated claims of the price impact of a competitive equipment market. But a competitive market will lower, not raise, equipment prices, and only a monopoly would argue the reverse.”*

Reality: Both the FCC and CEA concede that the costs of leased boxes will increase if operators have to redesign them and provide cards to every customer. It is impossible to argue that the cost of the leased set-top box will remain the same or be lower under the integration ban. The FCC record reflects the cost analyses provided by cable and CE parties as well as the cable rebuttal to the CE analysis. Cable has shown that the costs of adding CableCARD functionality to a box plus the cost of the card will add \$72-\$90 to box costs, translating into \$2-\$3 per box per month for consumers based on the FCC equipment regulations. Notably, Verizon’s integration ban waiver request cites cost figures similar to those provided by cable and the record on other waiver requests shows that the prices of at least some CableCARD-enabled devices are three times more than the price of an integrated box with similar functionality.

CEA Myth #10: *Cable “wants to force consumers to rent boxes from monopoly cable companies.”*

Reality: Since the CE industry has manufactured more than 28 million receivers for cable’s biggest competitors, DirecTV and Dish Network, CEA should know better than to refer to cable as a “monopoly.” Curiously, CEA has said nothing about the fact that the two DBS companies – the second and fourth largest sellers of multichannel video services in the nation – are free to design their set-top boxes however they wish. Neither company has chosen to disaggregate the security function in the manner that cable is being required to do. This disparate regulatory treatment will load more than \$600 million in annual costs on the cable industry and its customers and will delay downloadable security, placing cable companies at a significant competitive disadvantage to DBS companies (which, incidentally, are dues-paying members of CEA). It will also place cable at a disadvantage to its phone company competitors. AT&T has shown no intention of complying with the integration ban and Verizon, which is now

aggressively deploying its FiOS multichannel video service in competition with cable operators, also has asked the FCC for a waiver of the integration ban.

CEA Myth #11: *CEA is opposed to government-imposed technology mandates. In discussing NTIA's converter box plan, CEA's president recently told Communications Daily, CEA has long fought government requirements for TV receiver performance, and it will keep up the fight. "The difference I see here is no manufacturer is compelled to market this type of box" under NTIA's voluntary program, Shapiro said. "If manufacturers voluntarily want to make a box, these are the standards we're asking NTIA to put into place. And that's all it is. We are still going to fight mandates that force us to build all our products a certain way." Communications Daily, October 17, 2006, at 4.*

Reality: The CEA-backed integration ban is the most regulatory of technology mandates. It would tell cable how to build its set-top boxes, increasing costs for cable customers and operators based on hypothetical predictions that these heavy-handed rules will spur competition in devices made by CE manufacturers – who, by the way, have *no obligation whatsoever* to manufacture and market *any* digital cable ready devices.