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August 25, 2014

The Honorable Jay Rockefeller
Chairman
Senate Committee on Commerce, Science, and Transportation
Washington, DC 20510

The Honorable John Thune
Ranking Member
Senate Committee on Commerce, Science, and Transportation
Washington, DC 20510

Dear Chairman Rockefeller and Ranking Member Thune:

Last month you received a letter from Michael Powell, CEO of the National Cable and Telecommunications Association ("NCTA") urging you to adopt language from the House-passed bill that would repeal the requirement that operator-leased set-top boxes and retail set-top boxes commonly rely on the same security technology. In the letter, Mr. Powell repeats NCTA's claim that repeal of the ban on cable operators' integration of proprietary security with their own rental TV interface devices somehow will not affect the choices available to consumers at retail. That claim is false.

In support of this claim, NCTA cites the example of Buckeye Cablevision's request for a waiver of the integration ban. Far from supporting NCTA's claims, this case reveals its flaws. CCIA has opposed a waiver in the Buckeye case which illustrates why repeal of the cable operator integration ban would harm retail competition. It exposes the hollowness of the claim that cable operators will continue to "support" retail CableCARD devices.

Buckeye seeks to migrate cable channels to a proprietary IP-based security solution that cannot be received by retail CableCARD devices. Buckeye does not offer to make this new security solution available to retail boxes so that they can continue to receive these cable channels. This means that consumers using retail CableCARD devices would ***lose*** access to the channels they pay Buckeye to receive today when those channels are delivered using this proprietary security solution instead.

Despite Buckeye's pledge to continue to "support" CableCARDs in retail devices, retail devices will ***lose*** access to channels they receive today. This reveals the emptiness of NCTA's notion of supporting CableCARD. When consumers are told their device will be "supported," they believe it will continue to function as it does today – meaning the device will continue to receive ***all*** of the cable channels a consumer pays for. NCTA's definition of support, by contrast, apparently means something much, much less – that perhaps the retail device won't completely stop working but may be degraded so that it will not necessarily receive all of the cable channels it does today.

If a retail CableCARD device can no longer receive all of the cable operators' linear channels, retail CableCARD devices cease being a meaningful alternative for consumers, and the retail market will be quashed. This is just common sense and is precisely why the FCC determined that common reliance on the same security technology is critical to ensuring that consumers have a real choice.

NCTA's twisted notion of "support" comes as no surprise given that NCTA has taken the position at the FCC that the CableCARD rules are no longer in effect, while telling you that "repealing the integration ban would not impact cable operators' obligation to support retail devices." In the absence of any FCC requirement for operators to supply CableCARDs to retail devices, common reliance on the same security mechanism is, as a practical matter, the ONLY thing that assures that CableCARDs will be supplied by operators and will continue to receive all cable channels.

The repeal language that NCTA advocates is not narrowly-tailored and will deny consumers the benefits of innovation and choice. The Senate should not fall for NCTA's "support" sleight of hand. Consumers will be harmed by any repeal of the integration ban ***before*** a successor solution is in place upon which both operator-leased devices and retail devices can commonly rely to receive all cable channels.

Consumers pay cable operators around 7 billion dollars every year to lease set-top box equipment. While NCTA makes platitudes about supporting the availability of an independent retail market for video equipment, it's actions in pushing for repeal of the integration ban suggests that NCTA is more interested in killing off CableCARD and retaining this rental revenue cash flow for its members.

If the NCTA truly believes that CableCARD is hindering its ability to innovate, it should propose a new solution that both operator-leased devices and retail devices can rely upon. Indeed, one of our members recently announced such an arrangement with the largest cable operator to accomplish exactly this objective. The Senate Commerce Committee should refuse NCTA's call to pass legislation that would undermine the network industry's only incentive to put forth a next-generation successor to CableCARDs.

Sincerely,

Edward J. Black
President and CEO