

CRS Insights

The Battle over Cable Boxes

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Disagreement over requirements for the set-top boxes in viewers' homes is delaying congressional action on a bill to extend a 2010 law governing satellite television. Unless the issue is resolved before year-end, approximately 1.5 million satellite subscribers may lose access to broadcast television.

The dispute is about rules established by the Federal Communications Commission (FCC), pursuant to Section 629 of the Communications Act of 1934 ([47 U.S.C. §549](#)). In June 1998 the [FCC took steps](#) to encourage competition in the market for devices to access video services from Multichannel Video Programming Distributors (MVPDs), such as cable operators, yet allow MVPDs to prevent theft of their video services. Most of the devices in this market are set-top boxes that consumers lease from their MVPDs. In addition, other types of devices, such as digital video recorders from TiVo and cable-ready television sets, can be purchased from retailers.

As part of this balancing act, the FCC requires MVPDs to separate the decryption technology that allows subscribers to watch the signals for which they have paid (and prevents theft of the MVPDs' video services) from the navigation (tuning) function of the set-top box. The MVPDs must provide the separate decryption component to both subscribers who purchase third-party devices at retail outlets and subscribers leasing set-top boxes. The separation requirement for their own boxes is also known as the "integration ban." The integration ban has been in effect since July 1, 2007.

Would Repeal Increase Competition?

On July 22, 2014, the House passed [H.R. 4572](#), the Satellite Television Extension and Localism Act (STELA) Reauthorization Act of 2014. On September 17, 2014, the Senate Commerce Committee reported [S. 2799](#), the Satellite Television Access and Viewer Rights Act (STAVRA). Both bills extend existing legal provisions, without which satellite operators would lose the right to carry distant television signals to some subscribers on December 31, 2014. Both Section 105 of [H.R. 4572](#) and Section 203 of [S. 2799](#) would repeal the FCC's integration ban. According to press reports, the Senate bill did not move to a floor vote due to some Senators' support of the integration ban.

The debate largely hinges on the question of whether repeal would increase or diminish competition among MVPDs and electronics manufacturers. Opponents claim the ban unfairly singles out cable operators and is costly to consumers. Although the integration ban nominally applies to all MVPDs, the FCC effectively exempted satellite providers. Moreover, while Verizon FiOS has abided by the integration ban on a limited basis, AT&T U-Verse has not. Thus, the second- and third-largest MVPDs—DIRECTV and DISH, respectively—as well as the sixth-largest MVPD, AT&T U-Verse—are currently exempt. In 2010, the [FCC exempted certain cable operator-supplied set-top boxes](#) to encourage cable operators' transition to digital technology. The FCC has also issued temporary waivers to cable operators, including Cablevision and Charter, for "good cause," such as financial distress or the introduction of improved video services.

Integration ban supporters claim that repealing it would undermine competition among device manufacturers. According to market research firm SNL Kagan, approximately 75% of the 117.7 million devices in U.S. homes that access digital cable programming are leased from cable operators. Ban supporters argue that unless cable operators use the same technology as their competitors, the competitors will be disadvantaged. The ban's supporters urge Congress to wait for the FCC to choose a new technical standard before repealing the integration ban.

Life After CableCARD

The FCC required that cable operators use a technology called CableCARD to comply with the integration ban. A consumer using a retail device must obtain a CableCARD from an MVPD and insert it into the device in order to decrypt and view the MVPD's video signal. CableCARDS must also be used with boxes leased from MVPDs, but the cards come preinstalled in the boxes. The FCC based its rules on a memorandum of understanding between representatives of cable operators and consumer electronics industry manufacturers.

On January 15, 2013, in [EchoStar Satellite, LLC v. FCC, F. 3d 992 \(D.C. 2013\)](#), the U.S. Court of Appeals for the D.C. Circuit made the FCC's CableCARD rules legally void, as they were linked to another set of rules that the court said the FCC lacked the statutory authority to impose. Cable operators have nonetheless continued to rely on CableCARD as the de facto encryption standard.

Section 203 of [S. 2799](#) directs the FCC to establish a group of technical experts to recommend uniform, technology- and platform-neutral standards for downloadable security. The working group must file a report with the FCC no later than 540 days (approximately 1½ years) after the law's enactment. Meanwhile, the [FCC has an outstanding proceeding](#), opened in April 2010, which would (1) replace the CableCARD standard with downloadable security, and (2) apply the integration ban to all MVPDs. By acting on this open proceeding, the FCC could potentially address some concerns of both supporters and opponents of the integration ban.

Alternatively, the FCC could adopt a technology standard for retail devices that would enable consumers to more easily decrypt MVPDs' video signals. Prior to the integration ban's effective date, consumers purchased millions of analog television sets. These sets currently comprise about 24.6% of the devices that consumers use to watch digital cable television. Today these sets are configured with digital adapters that cable operators supplied to consumers after the operators transitioned to digital technology. At the time consumers purchased them, however, consumers could plug in their television sets and immediately watch cable television, without the need to seek out additional equipment from their cable providers. Since [July 2007](#) these sets have been unavailable for retail purchase. To watch cable programming on the digital television sets currently available at retail, consumers must request a CableCARD from their cable providers.

For more on STELA, see CRS Report R43490, [Reauthorization of the Satellite Television Extension and Localism Act \(STELA\)](#), by Dana A. Scherer, Lennard G. Kruger, and Angele A. Gilroy.