

May 23, 2016

The Honorable Thomas Wheeler
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

The Federal Communications Commission's (FCC) rules and regulations for the communications sector can have a significant effect on the security of individual Americans, our critical infrastructure, and our national and economic security. Given our committees' past work on cybersecurity, we have an interest in the Commission's current Notice of Proposed Rulemaking related to set-top boxes (MB Docket No. 16-42).¹ In particular, we are interested in learning more about the cybersecurity proposals within the rulemaking and urge further attention in this area. It is important that cybersecurity is fully addressed in any final rule.

As more and more devices become directly connected to the Internet, it is imperative that they be developed with adequate levels of security in mind. Vulnerabilities in software and hardware can allow malicious actors to infect consumers' devices and carry out cyberattacks. These attacks could allow criminals from across the globe to access networks and steal sensitive data. Further, without the right cybersecurity protections across networks, a vulnerable device could allow cybercriminals entry.

The communications sector has invested significant resources in the development and use of the NIST Cybersecurity Framework.² While the Framework itself is voluntary, many current communications providers are actively using it today to complement or support their existing security programs.³ It is unclear how some of the FCC's proposed rulemaking aligns with the Framework's recommended practices or how existing cable and satellite providers can adequately inventory devices attached to their network, including devices owned by a third party. For example, a core function of the Framework is to identify a firm's information technology assets and connections with other organizations and devices in order to ensure that it fully understands its risk posture and develops an associated cybersecurity risk management program.

To better understand how the Commission's current proposed rule-making related to set-top boxes impacts cybersecurity, we respectfully request the following information:

1. How did the FCC consider cybersecurity when developing the proposed rulemaking?

¹ *Expanding Consumers' Video Navigation Choices; Commercial Availability of Navigation Devices*, Notice of Proposed Rulemaking and Memorandum Opinion and Order, 31 FCC Rcd 1544 (2016) ("NPRM").


² National Institute of Standards and Technology, Cybersecurity Framework, <http://www.nist.gov/cyberframework/>.

³ *Id.*


2. The FCC requires self-certifications related to a number of issues, how will the FCC enforce this?
3. How does the proposed rulemaking ensure that third-party device manufacturers and software developers are meeting an adequate level of software and hardware security, including supply chain risks?
4. Did the FCC consider the NIST Cybersecurity Framework risk management approach in the proposed rule-making?
 - a. If yes, please describe how and cite the references in the proposed rulemaking.
 - b. If no, can you assure us the Framework will be considered as you draft final rules?
5. Does the proposed rulemaking address potential economic harm to content creators or businesses that may be impacted from the potential for cyberattacks or potential harm to infrastructure?

Please provide this information as soon as possible, but no later than 5:00 p.m. on June 10, 2016. If you have any questions about this request, please contact Brooke Ericson of the Senate Homeland Security and Governmental Affairs Committee Majority staff at (202) 224-4751; Brett DeWitt of the House Homeland Security Committee Majority staff at (202) 226-8417; Matt Grote of the Senate Homeland Security and Governmental Affairs Committee Minority staff at (202) 224-2627; and Christopher Schepis of the House Homeland Security Minority staff at (202) 226-2616. Thank you for your prompt attention to this matter.


Sincerely,




Ron Johnson
Chairman
Senate Committee on Homeland Security
& Governmental Affairs



Thomas R. Carper
Ranking Member
Senate Committee on Homeland Security
& Governmental Affairs



Michael T. McCaul
Chairman
House Committee on Homeland Security



Bernie G. Thompson
Ranking Member
House Committee on Homeland Security

cc. Commissioner Clyburn
Commissioner O'Rielly
Commissioner Pai
Commissioner Rosenworcel
U.S. Department of Homeland Security Secretary Jeh Johnson