



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

July 11, 2016

The Honorable Jeff Duncan
U.S. House of Representatives
106 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Duncan:

Thank you very much for your letter sharing your views about how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact the legal rights of copyright owners and creators and the privacy protections afforded to pay-TV consumers. I take your input on these issues seriously and assure you that it will receive careful consideration.

Section 629 of the Communications Act, adopted by Congress in 1996, requires the Commission to promote competition in the market for devices that consumers use to access their pay-television content. Yet, unfortunately, the statutory mandate in section 629 is not yet fulfilled. The lack of competition in this market has meant few choices and high prices for consumers. In a recent Rasmussen Report Study, 84 percent of consumers felt their cable bill was too high. One of the main contributing factors to these high prices is the no-option, add-on fee for set-top box rental that is included on every bill, forcing consumers to spend, on average, \$231 in rental fees annually. Even worse, a recent congressional investigation found that the price of most equipment fees is determined by what the market will bear, and not the actual cost of the equipment.¹ With the lack of competition in this market, it should come as little surprise that fees for set-top boxes continue to rise.² Clearly, consumers deserve better.

This February the Commission put out for public comment a proposal that would fulfill the statutory requirement of competitive choice for consumers. This action opened a fact-finding dialog to build a record upon which to base any final decisions. Our record already contains more than 280,000 filings, the overwhelming majority of which come from individual consumers. FCC staff is actively engaged in constructive conversations with all stakeholders—content creators, minority and independent programmers, public interest and consumer groups, device manufacturers and app developers, software security developers, and pay-TV providers of all sizes—on how to ensure that consumers have the competition and choice they deserve. I am hopeful that these discussions will yield straight-forward, feasible and effective rules for all.

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You shared your views about how this proceeding might affect the legal rights of copyright owners and creators. The FCC's authority to regulate communications has always existed alongside content owners' rights to control the duplication, distribution, or performance of their works. Starting with broadcast, and continuing with cable, satellite and the internet, the FCC has for more than 80 years regulated networks that content owners use to transmit their works to the public. In these activities, the Commission has always recognized the statutory rights of content owners and has pursued policies that encourage respect for these rights. In addition, several FCC-related statutes explicitly prohibit the alteration of broadcasts or the theft of cable transmissions that contain copyrighted works.

I share your goal of ensuring that the marketplace of legal copyrighted works is not harmed by our proceeding. And I am confident that these FCC-specific authorities and well-practiced contractual arrangements will continue to safeguard the legitimate interests of all of the participants in the video ecosystem. We have seen this work in the cases of the statutory regime governing must carry and of the essentially contractual regime governing retransmission consent, for example.

The goal of this rulemaking is to promote competition, innovation and consumer choice. I can assure you that we do not seek to alter the rights that content owners have under the Copyright Act; nor will we encourage third parties to infringe on these rights. All of the current players in the content distribution stream, including cable and satellite companies, set-top box manufacturers, app developers, and subscribers, are required to respect the exclusive rights of copyright holders. The rulemaking will require any companies that enter this market subsequent to our action to follow the same requirements.

I also share your interest in ensuring strong anti-piracy protections. Our proceeding will protect the role of digital rights management (DRM) platforms in the television ecosystem. DRM platforms offer rigorous protection against unauthorized copying and other violations of content owner rights.³ Importantly, DRM platforms are not developed by content owners or MVPDs, but rather, by businesses with expertise in DRM. Some of the more popular solutions currently on the market are Microsoft PlayReady and Adobe Primetime. The Notice of Proposed Rulemaking adopted by the Commission in February proposed that content owners would remain free to select the DRM platforms that they prefer. Developers of competitive apps and set-top boxes would license the DRM technology and satisfy compliance requirements – in the very same way that current set-top boxes support DRM, and the same way that competitive apps and devices already support DRM for online video.

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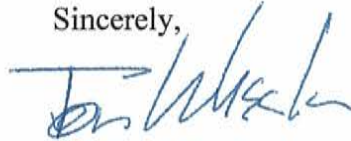
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The Honorable Trey Gowdy
U.S. House of Representatives
1404 Longworth House Office Building
Washington, D.C. 20515

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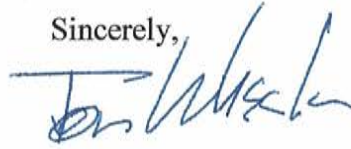
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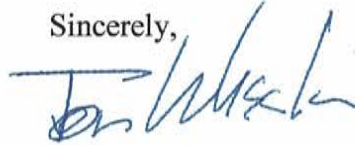
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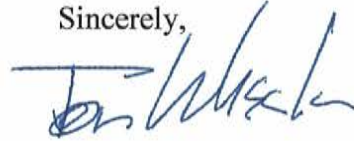
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Page 4—The Honorable Tom Rice

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Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 11, 2016

The Honorable Mark Sanford
U.S. House of Representatives
2201 Rayburn House Office Building
Washington, D.C. 20515

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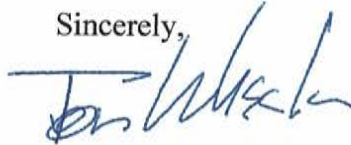
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Page 4—The Honorable Mark Sanford

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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

July 11, 2016

The Honorable Tim Scott
United States Senate
520 Hart Senate Office Building
Washington, D.C. 20510

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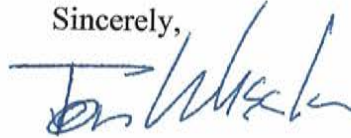
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July 11, 2016

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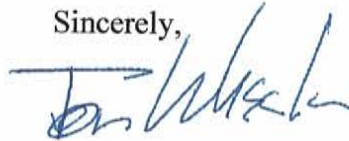
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