FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 11, 2016

The Honorable Rob Portman
United States Senate
448 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Portman:

Thank you very much for your letter expressing your questions about how the Commission's proceeding for better fostering competition in the set-top box and navigation app marketplace might impact the energy efficiency of set-top boxes. I take your input on this issue 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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[1] U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS, COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS COMMITTEE, MINORITY STAFF REPORT, INSIDE THE BOX: CUSTOMER SERVICE AND BILLING PRACTICES IN THE CABLE AND SATELLITE INDUSTRY, 17 (Jun. 23, 2016).

[2] One recent analysis found that the cost of cable set-top boxes has risen 185 percent since 1994 while the cost of computers, television and mobile phones has dropped by 90 percent during that same time period.

You raised questions about how this proceeding might affect the energy efficiency of set-top boxes. A majority of set top boxes deployed by pay-TV companies today are not energy efficient using approximately 300 kWh per year, while other options such as streaming devices use as little as 6 kWh per year.[3] By facilitating competition in interfaces, search functions, and integration of programming sources, consumers will be able to consolidate the number of devices they use to access their programming, and take advantage of new devices on the market, thereby reducing their energy consumption.

Please find below answers to the specific questions in your letter.

- **Has the FCC considered whether their proposed rule is consistent with ongoing efforts to minimize consumer electronics energy consumption? How does this rule interact with the existing Voluntary Agreement covering current consumer premises equipment?**

This proceeding is consistent with ongoing efforts to minimize consumer electronics energy consumption. As noted above, a majority of set top boxes deployed by pay-TV companies today are not energy efficient. Competition will bring smart, new entrepreneurs to this market who will improve the energy consumption of these devices. In addition, competition also will hasten the transition from hardware to apps. Today, Comcast alone is delivering 40,000 set-top boxes per day.[4] Expediting the transition to apps will in turn reduce the number of devices that consumers have in their homes.

This proceeding likely will significantly advance the energy efficiency gains realized by the Voluntary Agreement referenced in your letter. As you note, the U.S. Department of Energy projected that this agreement would improve set-top box efficiency by as much as 45 percent. However, as noted above, a majority of set top boxes deployed by pay-TV companies today are not energy efficient. These devices use approximately 300 kWh per year. Our proceeding will facilitate the use of other options such as streaming devices, which use as little as 6 kWh per year, or apps, the use of which will reduce the number of devices that consumers have in their homes.

- **Presumably, one benefit of a more competitive marketplace would be a reduction in the amount of necessary consumer equipment and related energy usage. Could the FCC's proposal result in cable providers deploying additional consumer premises equipment? Would MVPDs and content creators be able to deploy apps that provide access to their services via tablets and other devices without necessitating deployment of new equipment?**

Nothing in the Notice of Proposed Rulemaking (NPRM) adopted in February would require cable providers to deploy additional consumer premises equipment. Similarly, MVPDs and

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[3] https://www.energystar.gov/products/ask-the-expert/from-couch-potato-to-energy-saving-crusader%3A-how-to-save-big-with-your-cable/satellite-box

[4] http://www.bloomberg.com/news/articles/2016-06-23/can-a-company-you-hate-make-a-cable-box-you-love

content creators will continue to be able to deploy apps that provide access to their services via tablets and other devices without necessitating deployment of new equipment. In fact, by facilitating competition in interfaces, search functions, and integration of programming sources, there will likely be a significant increase in the deployment of these apps.

- **Could the proposed rules allow consumers to keep using the apps and other MVPD content they currently pay to access?**

The focus of this proceeding is consumer choice. Nothing in the NPRM would prevent consumers from continuing to use apps, whether created by content providers or pay-TV providers, and other MVPD content they currently pay to access. In fact, consumers who wish to continue leasing a set-top box from their MVPD may continue to do so.

The record we are developing will help us improve energy efficiency and reduce consumer energy costs while delivering American consumers meaningful choice. Thank you for your engagement in this proceeding, and I look forward to continuing to work with you on this important consumer issue.

Sincerely,

Tom Wheeler

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WASHINGTON

OFFICE OF
THE CHAIRMAN

July 11, 2016

The Honorable Jeanne Shaheen
United States Senate
506 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Shaheen:

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Please find below answers to the specific questions in your letter.

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content creators will continue to be able to deploy apps that provide access to their services via tablets and other devices without necessitating deployment of new equipment. In fact, by facilitating competition in interfaces, search functions, and integration of programming sources, there will likely be a significant increase in the deployment of these apps.

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