

United States Senate

WASHINGTON, DC 20510

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June 7, 2016

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

Dear Chairman Wheeler,

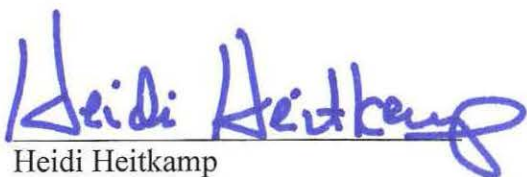
We write regarding the Federal Communications Commission's (FCC) recently proposed rule, *The Competitive Availability of Navigation Devices*. While your efforts to support competitive environments in the telecommunications industry and support for innovation are important, we are concerned there is not a publicly available cost benefit analysis for this rule. This rule has the potential for significant impact on all multichannel video programming distributors (MVPD), particularly small MVPDs, and could negatively affect customers across the nation.

A formal cost benefit analysis is an effective way for an agency to demonstrate the case in favor of a new rule by showing that expected benefits, both qualitative and quantitative, outweigh expected costs. Such analysis has also been a helpful tool to allow the general public to stay informed of the decisions a federal agency makes regarding proposed regulations. We understand that, given the FCC's independent regulatory status, your commission does not have to submit formal cost benefit analysis to the Office of Information and Regulatory Affairs as traditional executive agencies do. However, it is worth noting that independent regulatory agencies often choose to closely examine and consider costs and benefits when developing a rule.

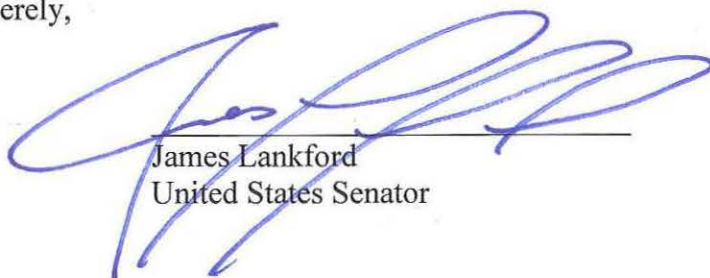
We have heard from a number of small MVPDs in our states who have voiced their concern over this rule. As you know, small MVPDs often do not make a significant profit from providing video services to their customers, many of whom already purchase their internet and landline telephone services from the cable providers. For these smaller MVPDs, making up for stranded investments and accounting for new compliance efforts can force them to end the distribution of video services to their customers. This is most problematic in rural areas where a consumer may have no other option for their video service. An open and detailed examination of costs and benefits associated with this rule would hopefully demonstrate that such worries are unfounded.

We urge you to consider qualitative and quantitative costs and benefits during this rulemaking process and commit to include, in the publication of the final rule, analysis of the impact of this rule on small MVPDs and how allowing third-party access to the program encryption, would improve consumer choice. Thank you for your attention to this matter, and we look forward to hearing from you.

Sincerely,



Heidi Heitkamp
United States Senator



James Lankford
United States Senator