

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

57

COMMITTEE ON ENERGY AND COMMERCE

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January 25, 2017

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Dear Chairman Pai:

We are writing to ask that you close the docket on the set-top box proceeding, MB Docket No. 16-42, and signal clearly to consumers, content producers, consumer electronics manufacturers, and video programming distributors that the Commission's consideration of its set-top box proposal is at an end.

There are numerous reasons that the Commission should close this docket. First, on a procedural note, the Commission should engage in the healthy practice of closing dockets that are no longer under active debate and consideration. Closing dockets can provide industry and consumers with a clear understanding of the FCC's assessment and plan of action. In this instance, the Commission attempted to achieve consensus on the set-top box plan as originally drafted but was unable to draw the necessary support for the proposal. Rebuffed by his fellow Commissioners, Chairman Wheeler chose to forge ahead with a significantly modified proposal, without further formal notice and comment, which again stalled for lack of support. The shortcuts around good process taken by Chairman Wheeler have tainted this proceeding and necessitate its closure.

Second, the FCC's proposal remains an unnecessary regulatory threat to the content creation and distribution industries. Content creators have argued that the proposed set-top box plan undermined their ability to protect copyrights and contracts. Without a clear indication that the Commission rejects this current proposal, content creators will be hesitant to invest in high-quality video programs. Minority programming creators, in particular, have argued that the Commission's proposal would rob them of audiences and the benefits of hard-negotiated contracts, ultimately limiting the availability of diverse programming to viewers. Similarly, video programming distributors have claimed that FCC's proposal would undermine their ability

to comply with their contractual obligations to display programming and would erode the advertising value of their audiences. Without a clear indication that the Commission rejects this current proposal, video programming distributors will not know whether their contracts will violate FCC policy. Ironically, the set top box proposal, meant to bring choices to consumers, would have the opposite effect, delaying the benefits of new programming and diverse content from reaching consumers.

Finally, this docket should be closed to give video programming distributors a clear sign that they can bring technological advances to set-top boxes and video delivery without fear that the Commission overturn them by regulation. Cable, satellite, and over-the-top video services are innovating, bringing their services to apps on new platforms, and responding to consumer demand. We should be fostering that kind of consumer-focused innovation, not mandating a one-size-fits-all "innovation."

The regulatory overhang of set-top box regulation has cast a shadow over investment and innovation in traditional video programming delivery. This has pushed video programming and delivery innovation out to the edge, which is currently unhampered by regulation. We believe that the best way to foster real choice in video programming delivery and bring consumers the services they want is to permit these innovations to flourish in all parts of the video ecosystem, not through a top-down Federal mandate. Accordingly, we urge you to close this proceeding and permit this industry to innovate and serve consumers free from the restrictions of a government-chosen platform.

Should you have any questions about the contents of this letter, please contact Grace Koh or David Redl with the Committee Majority staff at (202) 225-2927.

Sincerely,



Greg Walden  
Chairman  
Committee on Energy and Commerce



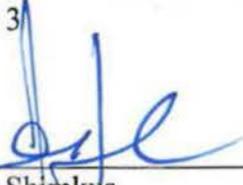
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Chairman  
Subcommittee on Communications  
and Technology



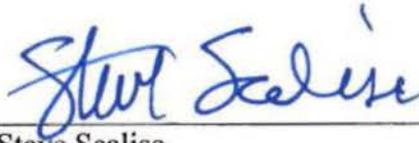
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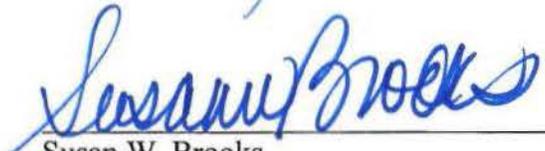
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cc: The Honorable Frank J. Pallone, Jr., Ranking Member  
Committee on Energy and Commerce

The Honorable Michael F. Doyle, Ranking Member  
Subcommittee on Communications and Technology