

Congress of the United States
House of Representatives

Washington, DC 20515

April 21, 2016

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

Dear Chairman Wheeler:

I appreciate your prompt response to my letter. While your answer addressed a number of the issues raised by my original letter, I remain concerned that certain issues have not been adequately addressed.

The Notice of Proposed Rulemaking concerning Navigation Devices includes a series of significant changes that would have a significant impact on the video market. While these changes are designed to promote competition, it is important to recognize that the video industry is already experiencing a historic level of competition. As you consider the final rule, I urge you to consider the potential impact that it will have on all parties in the video programming market.

Content providers depend on strong copyright protections and anti-piracy technology to ensure that their products retain value. Emerging technologies have made it easier than ever to reproduce and redistribute copyrighted content. Multichannel video programmers and content providers understand this and include powerful anti-piracy technology in their navigation devices because they have a shared interest in preventing piracy. Third-party device manufacturers do not share the incentive to prevent piracy. I urge you to ensure that the final rule adequately addresses this disparity in incentives and provides strong protection for content against piracy.

Emerging technologies have also created new concerns about privacy rights. Current pay-TV providers are obligated to protect private information about their customers' viewing habits, and the FCC has the authority over pay-TV providers to enforce those obligations. The current proposal does not apply a similarly stringent standard to third-party device manufacturers. Instead, it relies on device manufacturers to self-certify that they are in compliance with these privacy protections. It remains unclear how the FCC can ensure that device manufacturers actually comply with these obligations. Given that the FCC's legal enforcement authority is limited, I urge you to clarify how these privacy obligations can be enforced, including addressing what recourse consumers have against third-party device manufacturers that violate their privacy obligations.

This issue is of particular concern because some potential third-party device manufacturers rely on gathering information about their users for their primary source of revenue. Even if these companies earnestly self-certify that their devices do not violate the proposal's privacy obligations, it is not clear how the FCC can ensure that these companies do not inadvertently come into possession of protected private information about viewing habits with their extensive databases of personal information. Given that the FCC lacks the legal authority to regulate these

industries, it remains unclear how it can prevent privacy violations from occurring as a result of this rule. As the Commission considers the final rule, I urge you to adequately address how it can ensure privacy protections for consumers.

If enacted, the rules in your proposal will dramatically change the way Americans view and interact with video content. The proposal has generated an overwhelming public response, which underscores both its significance and its far-reaching consequences. As you review public comments to this proposal and draft the final rule, I urge you to ensure that it adequately addresses the concerns raised in this letter.

Sincerely,

A handwritten signature in dark ink that reads "Ron Kind". The signature is written in a cursive, flowing style.

Ron Kind

Member of Congress

Received & Inspected

APR 25 2016

FCC Mail Room