

Congress of the United States
House of Representatives
Washington, DC 20515-6503

July 26, 2016

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

Dear Chairman Wheeler:

On February 18, 2016, the Federal Communications Commission (FCC) voted to adopt a Notice of Proposed Rulemaking with the intended purpose of creating competition in the video set-top box marketplace. Billed as an effort to “unlock the box,” the FCC proposes to require multichannel video programming distributors (MVPDs) to provide sensitive consumer data to third-party device manufacturers in an attempt to create a new set-top box market, cede enforcement of important contractual provisions, and provide valuable content to third-parties without a copyright license. The FCC alleges that the new rules are necessary to increase innovation and lower prices for consumers, yet the proposal ignores the many innovations already occurring today. Unfortunately, these burdensome regulations would bring drastic changes to the marketplace that will likely have the reverse effect of harming consumers.

Commercial stakeholders and a number of bipartisan Congressional colleagues have weighed-in with critical questions about the potential negative impacts of this proposal on American consumers. Some of the most problematic concerns that have been raised include the exposure of sensitive consumer data, protection of valuable programming content, the ability of small and rural MVPDs to comply with heavy-handed mandates, and the potential harm the rules would have on independent and minority programmers. In my opinion, this robust record of concern and opposition justifies abandonment of the proposal.

As you know, following widespread objection from industry and Congressional leaders, a diverse multitude of stakeholders presented an alternative proposal that focuses on “ditching” the box altogether instead of the FCC’s shortsighted goal of “unlocking” it. This alternative plan more accurately reflects the state of today’s marketplace by allowing consumers to download an app on a smart TV or any other connected device, thereby ensuring that copyright licenses are protected while eliminating the need for a set-top box and the accompanying monthly set-top box rental fees. This industry compromise would help achieve the FCC’s original mission of creating more choice for consumers without tinkering with the dynamic innovation already flourishing among stakeholders.

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It has become increasingly evident that the original “set-top box” proposal is deeply flawed and should be abandoned. Instead of rushing the original proposal through the rulemaking process to meet an artificial deadline, it is my hope that the FCC will strive for industry collaboration and give every consideration to the alternative approach recently submitted. I urge you and your colleagues to seize this opportunity by going back to the drawing board and charting a new path forward that encourages bold innovation and truly benefits consumers.

Sincerely,



Steve Scalise
Majority Whip

cc (by email only): Mignon Clyburn, Commissioner, Federal Communications Commission
Jessica Rosenworcel, Commissioner, Federal Communication Commission
Ajit Pai, Commissioner, Federal Communications Commission
Michael O’Rielly, Commissioner, Federal Communications Commission