

June 23, 2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation: MB Docket No. 16-42; CS Docket No. 97-80. *Expanding Consumers' Video Navigation Choices; Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*

Dear Ms. Dortch:

This is to notify you that on June 21, 2016, Steve Necessary, Executive Vice President of Product Development and Management, Cox Communications, Inc. (“CCI”); Barry Ohlson, Vice President, Regulatory Affairs, Cox Enterprises, Inc. (“CEI”); Jennifer Prime, Director, Regulatory Affairs, CEI; Jason Rademacher of Cooley LLP, on behalf of Cox Media Group (“CMG”); and Rachel Wolkowitz and the undersigned, of Wilkinson Barker Knauer, LLP, counsel to both CCI and CEI, met with staff from the Media Bureau, Office of Strategic Planning, and Office of General Counsel (as indicated by ccs below).

The purpose of the meeting was to discuss the joint comments of CCI and CMG (collectively “Cox”) filed in response to the Commission’s February 18, 2016 Notice of Proposed Rulemaking in the above-referenced dockets (“NPRM”).¹ CCI (providing broadband, advanced video, telephone, and other services) and CMG (providing TV and radio broadcasting, publishing, and advertising/digital media services) collectively have been part of the video distribution marketplace for 68 years and, having long operated under the same roof, have a

¹ *Expanding Consumers' Video Navigation Choices; Commercial Availability of Navigation Devices*, Notice of Proposed Rulemaking and Memorandum Opinion and Order, MB Docket No. 16-42, CS Docket No. 97-80 (rel. Feb. 18, 2016).

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uniquely balanced appreciation for the various marketplace factors that drive content creation and the expansion of distribution technologies. The two companies rarely file jointly with the Commission but did so in this proceeding, based on serious concerns with the NPRM proposal.

At the meeting, the parties discussed the issues raised throughout the CCI and CMG comments, as reflected on the attached handout. Mr. Necessary described the significant time and resources that CCI has invested into innovation in the navigation device space, including voluntary work with third party manufacturers such as TiVo. He explained that CCI's concerns regarding the NPRM proposal are based on the "three Cs" – cost, complexity, and confusion – and addressed in particular the ways in which the proposal would harm CCI's ability to serve its cable customers. Mr. Rademacher focused on the CMG TV broadcast stations' concerns regarding the threats posed by the NPRM proposal to broadcasters' ability to continue providing a suitable platform for distribution of high-value content and advertising. Specifically, he expressed concerns about the willingness and ability of third party set-top box manufacturers and developers to respect the requirements of broadcasters' programming and advertising agreements and the potential impact that could have on revenues used by broadcasters to produce local news and serve their communities.

Both CCI and CMG expressed strong support for the alternative approach to the NPRM recently submitted by pay-TV providers and certain independent programmers (the "Alternative Proposal").² The Alternative Proposal centers on HTML5, allowing any manufacturer to offer innovative retail devices that can access and search MVPD service along with online content and enabling consumers to receive their MVPD service via an open, standards-based, downloadable app (rather than a leased set-top box). This approach would fully respect content creators' licensing terms that support high-quality diverse programming, keep content secure, and preserve full privacy and other consumer protections, thus addressing the vast majority of concerns raised in response to the NPRM proposal. The Alternative Approach would not preclude MVPDs and manufacturers of retail navigation devices from continuing to negotiate other bilateral commercial agreements, such as the agreements that support major retail platforms today. Mr. Necessary emphasized that the Alternative Approach is an across-the-board solution that will benefit consumers in a far more practical way, and much sooner, than the NPRM proposal would do.

² See Letter from Paul Glist, Davis Wright Tremaine, to Marlene H. Dortch, FCC, MB Docket 16-42, CS Docket 97-80 (June 16, 2016) (describing the approach put forth by representatives of Vme TV, Revolt TV, TV One, NCTA, AT&T/DIRECTV, and Comcast in June 15, 2016 meetings with the offices of Chairman Wheeler and Commissioners Clyburn, Rosenworcel, and O'Rielly).

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This letter is filed pursuant to Section 1.1206 of the rules of the Federal Communications Commission. Please direct any questions to the undersigned.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

By: /s/ Natalie G. Roisman

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