Cox Enterprises, Inc. / Cox Media Group / Cox Communications, Inc.
Media Bureau Meeting
June 21, 2016
Navigation Devices (MB Docket No. 16-42, CS Docket No. 97-80)

Cox's joint filing underscores the serious and irreparable harms the NPRM proposal would cause to both programmers and MVPDs.

- CMG (TV and radio broadcasting, publishing, and advertising/digital media) and CCI (broadband, advanced video, telephone, and other services) rarely file jointly with the FCC but have done so in this proceeding based on serious concerns.
  - Our two companies collectively have been part of the video distribution marketplace for 68 years and, having long operated under the same roof, we have a uniquely balanced appreciation for the various marketplace factors that drive content creation and the expansion of distribution technologies.
  - We believe the NPRM's proposal has little basis in market realities, lacks competitive parity, and would gravely harm the complex underpinnings of content rights, security, advertising, and consumer privacy that have shaped the most vibrant video marketplace in history.

The NPRM proposal is starkly inconsistent with marketplace realities.

- Consumers have a wide choice of providers, all with different TV interfaces, and are looking primarily for mobility and downstream devices/locations, not a new set-top box solution.

Mandating an artificially "competitive" market without ensuring parity does not benefit consumers and actually harms competition.

- While CCI would be obliged to build a new delivery method that could feed service elements to third-party devices, there is no corresponding obligation on manufacturers or software developers to include all or any of our MVPD services in their offerings.

Advertising, the chief sustaining revenue stream in the video marketplace and a direct reducer of consumer costs, would be critically threatened under the NPRM proposal.

- The NPRM proposal would:
  - Devalue CMG's advertising platform, which relies on the ability to offer exclusive advertising, by allowing (or providing no means to prevent) unaffiliated manufacturers to insert advertisements or to enable ad skipping.
  - Devalue CCI's advertising products by allowing a device or software to interfere with embedded advertising, leaving MVPDs with no recourse and eliminating the contractual tools programmers use to enforce prohibitions against such interference.
  - Upend the cable local advertising model for addressable and non-linear ads by divorcing content from services, and disincentivize CCI's investments (more than $10 million annually) to maintain and upgrade headends and ensure compatibility with set-top box infrastructure in support of advertising.

<u>The content security risks are substantial. As a programmer, CMG finds nothing in the NPRM proposal that ensures the existing MVPD distribution model will be protected from disaggregation, and CCI is concerned that as an MVPD, it cannot meet its programming partners' requirements.</u>

- High-quality content is costly to produce and acquire, and it is the confidence regarding existing business models and standards of content security that allows producers of high value content to use traditional and new distribution mechanisms. Absent adequate content security, broadcasters like CMG may have great difficulty entering into retransmission consent agreements with MVPDs, endangering the entire network/affiliate model. Negotiated licensing agreements, based in copyright law, are essential to protecting CMG's investment in its brand and the content it represents.
- CCI cannot ensure compliance with programmers' requirements in existing programming agreements, given the potential insertion of unknown third parties to the distribution chain and the possibility they will breach such requirements. It also is unclear if third-parties that certify they are abiding by the rules will deliver a complete video experience that serves all consumers, including video descriptions and closed captioning.

<u>In addition to many indirect consumer harms that will flow from harms to advertising and security, the NPRM proposal would directly harm consumers by increasing costs and decreasing service, in exchange for the theoretical promise of increased choice in devices – which the data shows consumers are not seeking.</u>

- *Service Quality and Customer Service Challenges.* In subscribing to CCI's services, a customer creates a relationship with CCI and expects CCI to deliver a host of functions and quality associated with the service. The proposal to separate service content from service features would squander CCI's long history as a trusted provider and strip CCI of its ability to ensure the highest levels of customer service.
- *Increased Power Bills.* CCI worked with environmental groups and NCTA to reduce power consumption and increase energy efficiency for leased devices. Meanwhile, the NPRM proposal will likely introduce more power-hungry equipment into consumers' homes.
- *Increased Costs.* Parsing out and sharing the service elements designated in the proposal requires the creation of new delivery architecture and new equipment, the cost of which will be borne entirely by customers.
- *Unfounded Attack on the Leased Model.* CCI data shows that consumers value the quality, simplicity, and convenience of renting equipment. Even with a robust retail market and standards-based interoperability for broadband modems and gateways, more than 90 percent of new customers choose to rent these devices from CCI.

<u>The Alternative Proposal is a far better solution than the NPRM proposal because it builds on the open HTML5 standard that reflects actual marketplace developments – but also includes a binding obligation on MVPDs to offer apps, which CCI will pledge to uphold.</u>

- Both CCI and CMG fully support the alternative approach to the NPRM recently submitted by pay-TV providers and certain independent programmers (the "Alternative Proposal") and urge the Commission, if it takes action here, to adopt the Alternative Proposal approach. This approach is substantively better, will achieve the underlying goals of the FCC and "Unlock the Box" proponents, and will bring more options to market sooner – subject to FCC enforcement.