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VIA ECFS

July 8, 2016

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

Re: Notice of Ex Parte Presentation, MB Docket No. 16-42, CS Docket No. 97-80

Dear Ms. Dortch:

On July 6, 2016, Stephen Kay, General Counsel of Roku, Inc. (via telephone), Steve Shannon, General Manager, Content and Services of Roku (via telephone), and Trey Hanbury and Alexi Maltas of Hogan Lovells as counsel to Roku, met with Gigi Sohn, Counselor to the Chairman, Scott Jordan, Chief Technologist, Jessica Almond, Legal Advisor to the Chairman (via telephone), and Eric Feigenbaum, Office of Media Relations.

The Roku representatives discussed their concern that the proposal recently put forth by MVPDs would, as a practical matter, establish HTML5 as the *de facto* standard in the video distribution marketplace. Such an approach would be ill advised given that consumers have clearly demonstrated their preference for an array of devices with diverse user experiences at various price points, which has spurred competition and innovation in the marketplace. The Roku representatives further explained that HTML5 is a bulky and expensive architecture that would require third-party device manufacturers to include additional processing power and memory to support it, even in their lowest-priced devices. These additional hardware requirements would cause consumer prices for streaming devices to increase. Thus, establishing HTML5 as the standard for apps would reduce innovation, product diversity, and the availability of devices for value-oriented consumers and would disserve the public interest.

While Roku continues to believe that the Commission's current set-top box rule making efforts could be counterproductive, the Roku representatives suggested the following proposed features of any regulatory framework to promote continued competition and innovation in the marketplace.

Multiple Apps: To the extent that the Commission pursues an apps-based approach, it should not embrace HTML5 as a preferred or mandated standard. Instead, the Commission should require MVPDs to support all widely deployed and secure platforms. The key is that consumers, rather than MVPDs or the Commission, should determine successful standards and platforms over time.

No Third-Party Development Within Qualifying MVPD Apps: In order to ensure robust competition in the marketplace for third-party navigation devices, including continued innovation in device user interfaces and search and discovery functionality, the Commission should not permit MVPDs to support third-party app development within the app that the MVPD uses to satisfy its obligations under any new set-top box regulations. Allowing third-party app development within the MVPD's qualifying app would undermine the competition that the Commission seeks to promote among navigation devices by enabling the MVPD's app to become a single point of access for all content. MVPDs should remain free to offer other apps that provide access to third-party apps, but such apps would not satisfy the Commission's set-top box requirements.

Direct Delivery of Content by Providers with Seamless Authentication: The Commission should adopt regulations that require MVPDs to fully support content provider apps that deliver content directly to users who are paying for such content as part of an MVPD's programming package. Today, this model is partially embodied by the TV Everywhere initiative; however, accessing content via TVE apps on third party streaming devices and internet-connected TVs is spotty and subject to arcane authentication processes. By mandating that MVPDs seamlessly authenticate programmer content for paying subscribers, content providers will be free to innovate and develop apps for streaming players and smart TVs. In the event that authentication occurs via the MVPDs modem or home gateway, the authentication process should be automated.

Rich Metadata for Search and Browse: Any rule that the Commission may adopt should include robust metadata requirements. Adopting specific requirements for MVPD metadata and requiring MVPDs to support "deep-link" capabilities would allow consumers to discover and explore the content they have already purchased from the MVPDs without compromising the security, advertising and other features the MVPD and programmers have developed for their offerings.

General Non-Discrimination Standard: Rather than attempting to predict all technical and legal issues that could promote or thwart competition in the future, the Commission should adopt a general non-discrimination standard that prevents MVPDs from adopting practices or requirements that might result in a user experience on third-party devices that is substantially dissimilar from the user experience available on MVPD-supplied set-top boxes.

Efficient Enforcement: Disputes will likely arise between MVPDs and device manufacturers over whether MVPDs offer adequate support for third-party platforms, or whether MVPD conduct has unreasonably disadvantaged third parties. The Commission should adopt streamlined procedures to resolve such disputes. The Commission should also identify clear penalties to ensure compliance.

Sincerely,

/s/

Trey Hanbury
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cc: Gigi Sohn
Scott Jordan
Jessica Almond
Eric Feigenbaum