



The **WALT DISNEY** Company

Susan L. Fox  
Vice President  
Government Relations

September 9, 2016

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

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

Dear Ms. Dortch:

On September 8, 2016, the undersigned and Richard Bates of The Walt Disney Company, Kyle Dixon of Time Warner Inc., Henry Hoberman of A&E Television Networks, LLC, Kimberly Hulseley of Scripps Networks Inc., Anne Lucey of CBS Corp., Keith Murphy of Viacom Inc., Jared Sher of 21<sup>st</sup> Century Fox, Inc., and Chris Wood of Univision Communications Inc. spoke via telephone with Commissioner Jessica Rosenworcel and Marc Paul to discuss the above-referenced proceeding.

The programmer representatives stressed that they remain strongly opposed to and could not support any licensing construct in which the Commission or any third-party (other than the MVPD or programmer) has the ability to alter the terms or conditions that would be contained in any license permitting a device manufacturer to distribute copyrighted video programming. In particular, the programmer representatives noted that any arrangement in which they are required to allow their content to be distributed on terms or conditions to which programmers would not agree would be tantamount to a compulsory copyright license, which the Commission lacks authority to impose.

In addition to these concerns, several of the programmers referenced earlier comments that highlighted the problems with the existing flawed DFAST License/Cable Card regime and the apparently expanded FCC role currently being proposed. They cited examples of ad overlays and content manipulation that have emerged under the current DFAST structure and how similar hazards would be realized in an environment where the FCC is involved in a licensing regime.<sup>1</sup>

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<sup>1</sup> Comments of 21<sup>st</sup> Century Fox, Inc., A&E Television Networks, LLC, CBS Corporation, Scripps Networks Interactive, Time Warner Inc., Viacom Inc., and The Walt Disney Company (MB Docket No. 16-42), at 27-31; Reply Comments of 21<sup>st</sup>



In conclusion, the programmer representatives stressed that the Commission should not adopt any proposal that includes any FCC involvement in the licensing process or that grants the FCC the ability to establish or modify the terms and conditions of any license for the ultimate distribution of content.

This letter is being submitted electronically in the above-referenced dockets, which have been granted permit-but-disclose status, pursuant to Section 1.1206(b) of the Commission's Rules. Should you have any questions concerning this submission, kindly contact the undersigned.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Susan Fox', written in a cursive style.

Susan Fox

cc: Commissioner Jessica Rosenworcel  
Marc Paul

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Century Fox, Inc., A&E Television Networks, LLC, CBS Corporation, Scripps Networks Interactive, Time Warner Inc., Viacom Inc., and The Walt Disney Company (MB Docket No. 16-42), at 11-13.