Congress of the United States
Washington, DC 20515

June 18, 2015

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

Dear Chairman Wheeler:

Last year, as part of the STELA Reauthorization Act (STELAR), Congress directed you as Chairman to establish a Working Group that would examine technical issues and make recommendations on a software-based downloadable security system for securing video content. We are pleased that you chartered the Working Group, now called the Downloadable Security Technical Advisory Committee (DSTAC), in a timely manner, as the statute directs.

Unfortunately, we have become increasingly concerned that DSTAC is not following its original congressionally defined purpose. The limited scope of the DSTAC's mission is clear. It is:

> "to identify, report, and recommend performance objectives, technical capabilities, and technical standards of a not unduly burdensome, uniform, and technology- and platform-neutral software-based *downloadable security system* designed to promote the competitive availability of navigation devices in furtherance of section 629 of the Communications Act of 1934 (47 U.S.C. 549)." (emphasis added).

The authorizing language referenced above was thoroughly debated by Congress. It was the subject of numerous discussions involving alternative approaches some of which would have authorized a broader mission for DSTAC. In the end, both the House and Senate unanimously adopted this language which instructs the Commission to carry out a limited and focused mission.

Some group participants and directives issued by your staff, unfortunately, are ignoring the qualifying statutory language regarding downloadable security in order to resurrect a previously discredited proposal referred to as AllVid. These proposals and staff directives go well beyond security issues, and in fact, seek to force providers to dismantle their video services and content for others' commercial exploitation, harming the video marketplace and interfering with contracts and copyright law in the process. Such a controversial approach was suggested by the Commission in 2010, but was never pursued by the Commission or advanced by Congress. Its resurrection would not only be an enormous distraction, but more significantly, would also plainly go beyond the limited statutory mission assigned to DSTAC. For a committee convened under the rules of the Federal Advisory Committee Act, agencies are expected to follow procedures "to assure that the advice or recommendations of advisory committees will not be

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inappropriately influenced by the appointing authority or by any special interest." Encouraging DSTAC to divert from its statutory mission—which Commission staff has consistently done through the issuance of guidance and directives—is not consistent with agency neutrality and inappropriately distracts participants' time and energies on extraneous matters that threaten to undermine the quality of the inquiry.

We urge the Commission to follow the clear statutory language set in STELAR and ensure that DSTAC's inquiry and report do not go beyond the bounds of the statute. To do otherwise would be directly contrary to the direction Congress gave you in STELAR, would be inconsistent with the clear intent of Congress, and would raise questions about your willingness to follow Congressional mandates.

Sincerely,

Robert E. Latta
Member of Congress

Gene Green
Member of Congress

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 11, 2015

The Honorable Gene Green
U.S. House of Representatives
2470 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Green:

Thank you for your letter expressing concern about whether the Downloadable Security Technical Advisory Committee (DSTAC) is following its original congressionally defined purpose.

As you know, Section 106(d) of the STELA Reauthorization Act of 2014 (STELAR) directed the FCC to establish a working group to "identify, report, and recommend performance objectives, technical capabilities, and technical standards of a not unduly burdensome, uniform, and technology- and platform-neutral software-based downloadable security system designed to promote the competitive availability of navigation devices in furtherance of section 629 of the Communications Act of 1934." I established DSTAC to meet this statutory directive and have asked the Committee to include in its report how to meet the obligations of both section 629 of the Communications Act, as the umbrella statutory mandate, and section 106 of STELAR.

DSTAC was created under the rules of the Federal Advisory Committee Act and meets each of the requirements outlined by Congress. It contains representatives of all parties in interest. The Committee has been moving full-steam ahead – holding six full, public committee meetings since it was formed and holding working group meetings four days per week. FCC staff is working to keep DSTAC on task to complete the required report to the Commission by September 4, 2015.

All DSTAC meetings are public and any non-members can make comments at those public meetings, including the very issue you raise here. This is an open and transparent process, and FCC staff is working to address any concerns as they arise, including issues relating to the scope of the report.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

Tom Wheeler

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 11, 2015

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2448 Rayburn House Office Building
Washington, D.C. 20515

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Tom Wheeler