



September 11, 2015

Ex Parte

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

Re: Promoting Innovation and Competition in the Provision of Multichannel Video Programming Distribution Services; MB Docket No. 14-261

Dear Ms. Dortch:

On September 9, 2015, Gunnar Halley, Senior Attorney and Paula Boyd, Director of Government and Regulatory Affairs, both of Microsoft; Sarah Hudgins, Manager of Public Policy, Amazon.com; and I met separately with Chanelle Hardy, Chief of Staff and Media Adviser to Commissioner Mignon Clyburn; and with Valery Galasso, Policy Adviser to Commissioner Jessica Rosenworcel to discuss matters in the above-referenced proceeding.

During the meetings, we summarized the arguments set forth in DiMA's comments. In particular, we highlighted the tremendous innovation that has recently occurred in the marketplace for online video content. We noted that several of the nation's leading online video distributors ("OVDs") currently make available millions of movies and television shows to be streamed or downloaded instantly by consumers; and that much of that programming is of exceptional quality. In light of such developments, we questioned the need for government regulation at the present time.

To the extent the Commission decides to move forward with this proceeding, we also expressed our agreement with those that have maintained that the Commission should first resolve a number of outstanding issues - including the resolution of its current review of the "good faith" negotiation requirements under retransmission consent, the possible revision of its program access rules and the completion of its annual report on competition in the video marketplace - prior to proceeding with the current rulemaking. Completion of these matters first would considerably inform efforts in the current rulemaking.

We reiterated our previous recommendation that the Commission (should it decide to proceed) adopt a flexible approach allowing OVDs to choose whether to opt-in to such a scheme if they perceive a benefit in the regulatory framework; thereby making those distributors eligible to receive any of the attendant benefits and subject to any (and all) of the specified obligations. Finally, similar to others, we noted that there remains a number of difficult policy and technical questions and this proceeding may benefit from a Further Notice of Proposed Rulemaking.<sup>1</sup>

Pursuant to the FCC's rules, I have filed a copy of this notice in the above-referenced proceedings. If you require any additional information please contact the undersigned.

Respectfully submitted,

/s/ Gregory Alan Barnes

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cc: Chanelle Hardy  
Valery Galasso

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<sup>1</sup> Letter from Monica S. Desai, Counsel to YipTV, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 14-261, at 3 (filed August 17, 2015). *See also*, letter from Stephen Traylor, Executive Director of the National Association of Telecommunications Officers and Advisors (“NATOA”), to Marlene H. Dortch, Secretary, FCC, MB Docket No. 14-261, at 1 (filed September 1, 2015).