



state of the art in video technology.<sup>2</sup> To assist the Commission as it reviews these proposals and the public comments on them, advocates of the virtual head-end proposal submitted a technical summary of the virtual head-end proposal.<sup>3</sup> This summary does not propose any concepts or technology that were not already contained in the DSTAC's virtual head-end proposal. Instead, it provides a description of the ideas already in the DSTAC report, in a more digestible format illustrating that this proposal can be readily implemented through references to recognized and widely implemented off-the-shelf technologies. This demonstration of feasibility is inconsistent only with the parody of the virtual head-end proposal NCTA provided in its comments on the Bureau's Public Notice.<sup>4</sup>

But even if one were to believe that the technical summary is somehow new—that is, beyond the scope of the virtual head-end proposal—this would still provide no basis for a delay in this proceeding. The FCC must provide adequate time for commenters to consider items the FCC itself puts out for comment—*ex parte* filings from advocates do not create an obligation for the Commission to open up a new comment cycle. In this docket, the FCC has sought comment on the DSTAC Final Report, and nothing more.<sup>5</sup> If the NTCA believes that the technical summary is beyond the scope of this proceeding, then it is under no obligation to comment on it

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<sup>2</sup> DSTAC Summary Report, <https://transition.fcc.gov/dstac/dstac-report-final-08282015.pdf>.

<sup>3</sup> Ex Parte Filing of Public Knowledge, MB Docket No. 15-65 (October 20, 2015).

<sup>4</sup> Comments of NCTA, MB Docket No. 15-65 (October 8, 2015).

<sup>5</sup> Media Bureau Seeks Comment on DSTAC Report, *Public Notice*, 2015 WL 5164960 ¶ 1 (2015) (“the Media Bureau seeks comment on the DSTAC’s report, including the four Working Group reports attached to the final report, and how it should inform the Commission’s obligations under Section 629 of the Communications Act.”).

at this time. Of course, the virtual head-end advocates *do* believe that the FCC should implement the virtual head-end proposal<sup>6</sup>—but only after a rulemaking. The NCTA would have ample time to respond to any “new” proposals in any such rulemaking proceeding.

More broadly, the NCTA's rhetoric misleadingly suggests that virtual head-end proponents are simply re-advocating for “AllVid.” In the first place it is not clear why the NCTA is using “AllVid”—an FCC-originated term<sup>7</sup> that refers to a proposal that was contained in the National Broadband Plan<sup>8</sup>—as a kind of insult. But aside from that, the NCTA has shown in this recent filing that it will simply call any proposal it does not agree with “AllVid,” regardless of the details. If the technical summary did nothing more than reiterate the arguments that were made for “AllVid,” then it could definitionally not contain any new material that would merit further consideration. The fact that the NCTA is willing to apply the term “AllVid” to something it maintains is radically different from the DSTAC proposal that NCTA also called “AllVid” illustrates most succinctly that NCTA views “AllVid” as nothing more than a derisive catch-all term for any IP-based set of references that would support competitive devices that are actually and fully competitive with its members’ leased set-top boxes.

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<sup>6</sup> See, e.g., Comments of Public Knowledge, MB Docket No. 15-65, at 3 (October 7, 2015) (“the Commission should ... building on the DSTAC report’s ‘virtual head-end’ proposal, move quickly to a rulemaking proceeding that formalizes a new standard allowing differentiated devices to access and display MVPD content.”).

<sup>7</sup> Video Device Competition, *Notice of Inquiry*, 25 FCC Rcd. 4275, ¶ 17 (2010).

<sup>8</sup> See FEDERAL COMMUNICATIONS COMMISSION, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN 35-36, 49-52 (2010)

The NCTA has had ample opportunity in this docket and, through its members, in the DSTAC reports and meetings to explain its opposition to the virtual head-end proposal and competitive device policies more broadly. Its concerns have been noted, and the proposals that NCTA members and others support have been set forth at length in the DSTAC papers on the public record. The FCC, in response to an *ex parte* filing, should not grant additional time for the same arguments to be recycled in an effort to stave off meaningful action by the Commission.

Respectfully submitted,

John A. Howes, Jr.  
*Legal Fellow*  
COMPUTER & COMMUNICATIONS INDUSTRY  
ASSOCIATION

John Bergmayer  
*Senior Staff Attorney*  
PUBLIC KNOWLEDGE

Todd O'Boyle  
*Program Director*  
COMMON CAUSE

Linda Sherry  
*Director, National Priorities*  
CONSUMER ACTION

Angie Kronenberg  
*Chief Advocate and General Counsel*  
INCOMPAS

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