League of United Latin American Citizens

February 17, 2016

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

Re: MB Docket No: 15-64, Request for Comment on the Report of the Downloadable Security Technical Advisory Committee

Dear Chairman Wheeler:

The League of United Latin American Citizens (LULAC) appreciates your recent set-top box proposal designed to help reduce or eliminate monthly fees charged by Multichannel Video Programming Distributor's (MVPDs) for leasing set-top-boxes. Our organization shares the Chairman's goal of reducing fees and making pay-TV more affordable for consumers—an outcome that would be favored by many people in the Latino community.

However, we are concerned that your proposal goes beyond reducing fees, and, in fact, is more focused on stimulating interface competition beyond what is already being offered through the cable card standard. Interface competition is not a top priority of Latino consumers who are more concerned with price and actual programming than they are on the various guides and ancillary services that are offered through set-top boxes.

In our opinion, reducing fees and interface competition are two different issues and should be addressed separately since interface competition does not guarantee fee reduction and, in fact, could result in unintended consequences that could harm minority programmers. At the very least, while fee reduction should be fast-tracked, the commission should take its time and explore all the ramifications of interface competition.

LULAC believes that the Commission could take several steps to reduce or eliminate set-top-box leasing fees.

1) The Commission could require MVPDs to provide a purchasing option for set-top boxes including those with DVRs for customers who would like to avoid monthly fees.

2) The Commission could require MVPDs to provide a lease-to-own option for set-top boxes including those with DVRs for customers who do not want to pay monthly fees after the cost of the equipment is paid for.

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3) The Commission could require MVPDs to allow customers to purchase or lease one multi-room set-top box including those with DVRs which could provide video feeds to multiple TV sets throughout the house without the need for additional boxes.

4) The Commission could require MVPDs to allow 3rd party manufacturers to make set-top boxes with similar specifications to the MVPDs own set-top box offerings to which a ROM containing the MVPDs interface, decryption and security software could be downloaded and installed on the device.

5) The Commission could require MVPDs to offer a downloadable app which allows programming to be browsed and watched through the app utilizing the same video stream as the provider's standard set-top box and not the customer's public internet connection.

6) The Commission could require MVPDs to offer a downloadable app that authenticates a TV's built in QAM tuner and allows it to unscramble all the programming included in the customer's video package without the need for a set-top box.

In our opinion, implementing one or more of the above strategies would help consumers reduce or eliminate the monthly fees that they are paying to lease set-top boxes and help address one of the chief complaints that customers voice about their MVPD service.

On the other-hand, LULAC believes that creating interface competition has only limited consumer benefit and this will be primarily for the most avid users of TV technologies such as the people who currently own TiVo systems today. LULAC, for example has at least 5 different set-top box interfaces that we utilize in our various offices including TiVo and satellite yet we have no preference for one interface over the other. What matters to us is the video programming itself, the cost of renting or owning the boxes and the ability to record programming on a DVR.

We note that most consumers also appear adept at switching between input devices going from Pay TV channels to video games to blu ray players to Rokus with ease. While interface competition could lead to a couple of these services being combined into one unit, the Commission should not assume that this proposal will necessarily lead to TVs or set-top boxes that can do everything and be controlled with one remote, nor should the Commission necessarily consider this a desirable outcome. For example, would it be progress for a consumer to discard their Smart TV in order to purchase a new one that has the latest gaming hardware installed in it? Most consumers would continue to have multiple devices to view video content even with the proposed rules in place and are not bothered by the need to switch inputs any more than they mind switching channels.

Finally, LULAC encourages the Commission to consider the unintended consequences that an interface competition rule might entail and to take its time in evaluating the long term impact of such a regulation. Possible unintended consequences include:

1) The cost of MVPDs re-engineering their systems to come into compliance with the new open video standard is likely to be born mostly by their customers whether they plan to take advantage of the 3rd party interfaces or not.

2) At a minimum, 3rd party interface makers are likely to monetize the consumer viewing data they can gather through their software with no obligation to provide a portion of that revenue stream to the producers of the programming and/or the customers who are paying for the programming and whose viewing habits are being monetized. On the other hand, MVPD data mining revenue can be used to pay for higher programming fees as well as lower the cost of the service for the customer.

3) Conceivably, 3rd party interface makers could exploit the MVPD programming in many additional ways unless specifically prohibited by the Commission including:

    a. Selling ads, promos and premium channel placement to the highest bidders without compensating programmers or consumers for the revenue they are helping to generate.

    b. Taking ad skipping technology a step farther by removing programming channel ads and replacing them with their own thus denying programmers one of their most important sources of revenue.

    c. Giving preference to free over-the-top content in the interface and through search in such a way that it will pressure programmers to consider offering their content for free over-the-top in order to keep from having their viewership eroded by competing free over-the-top channels. Coupled with MFN clauses, preferential treatment for free over-the-top programming would likely drive many minority owned and/or themed channels out of business.

    d. Having diverse minority owned and/or themed channels lost in a sea of channels ranked by search engine algorithms that list the majority population’s favorite channels at the top of the list and ranking the choices of minority populations at the bottom.

It is important for the Commission to study these potential unintended consequences and others to ensure that the comparatively minor gains created by interface competition do not damage the viability of diverse channels, many of which are already financially stressed as it is.

LULAC notes that contrary to the Commission's statements, over-the-top programming is not especially diverse, few if any minority channels have developed a sustaining revenue stream from over-the-top programming, and the edge providers themselves are some of the least diverse businesses operating in the United States. It is hard to understand why the Commission is under the impression that blending over-the-top programming with paid-TV channels in a 3rd party interface will lead to more revenue for diverse programmers. This dynamic must be studied further before the Commission moves forward with the interface competition portion of its rule making.

In conclusion, LULAC believes the Commission should move forward with one or more rules similar to the ones we have outlined above (1-6) in order to help consumers reduce or eliminate set-top box fees. The Commission should hold off for further study its proposal to create set-top-box interface competition paying special attention to the impact such a proposal could have on the viability of diverse programming that is currently carried by MVPDs. In the meantime, 3rd parties who want to compete with MVPDs by creating unique interfaces that blend over-the-top programming with paid TV as well as offering additional innovative services can do so now utilizing cable cards. The Commission should encourage would be 3rd party interface makers to demonstrate that they can make compelling products at competitive price points utilizing cable cards and studying the effects of these devices on diverse programmers before imposing a new regulation that could end up causing more harm than good.

Sincerely,

Brent Wilkes

Brent Wilkes
LULAC National Executive Director