

April 4, 2016

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

Dear Chairman Wheeler,

The Hispanic Technology and Telecommunications Partnership (HTTP) writes to express our deep concern with the Commission's proposal to regulate set-top boxes. We believe this approach will undermine diversity in the television industry, all to solve a "problem" that does not currently exist.

HTTP members support the social and economic advancement of over 50 million Americans of Hispanic descent and work to ensure individuals in our community have equal access to technological advancements. While Hispanic representation in the media and entertainment industry has improved in recent years, we still have work to do. Market and financial certainty are critical to ensuring content creators continue to invest in more high quality programming for Latino audiences, including Spanish-language options.

Consumers are already reaping huge benefits from a vibrant and competitive marketplace that lets viewers watch what they want, whenever they want and on the device they choose. The set-top box proposal is regressive and ignores this highly competitive nature of the video market. Instead of acknowledging the unprecedented innovation sweeping the video marketplace today, this rule seeks to put its thumb on the scale and favor large tech companies at the expense of independent and diverse programmers.

Minority programmers depend on licensing and advertising agreements that are carefully negotiated with TV providers. These licensing agreements provide the programming community with crucial contractual protections related to channel placement, advertising and piracy. They give programmers the security and certainty needed to finance and produce a broad range of diverse programming, and to invest in developing new content for consumers.

If the Commission mandates its set-top box proposal, tech companies will not be required to abide by the terms of these privately negotiated licensing agreements. Instead, the telecommunications, satellite and cable companies that have negotiated and paid for the television programming rights would be forced to hand them over to technology giants like Google for free. The tech companies would get the programming at no cost and be free to repackage it as their own, while ignoring negotiated guarantees about channel placement, advertising restrictions and other critical terms. In effect, the FCC will be giving these favored companies a license to reap a windfall from the vibrant content industry while poaching the

revenues that creators rely on to develop high-quality programming. This represents a clear threat to the industry's continued growth and innovation.

The FCC's new set-top box regulations provide no real guarantee that minority-owned programming will be easily accessible to minority communities. The proposal could instead harm programmers by making their content harder to find in programming guides or search menus provided by third party boxes since their priority is to collect data to sell more ads. Furthermore, tech companies will have the ability to expand their own advertising businesses around programming without sharing the revenue with the programming creators. This lopsided regulatory interference could ultimately weaken minority voices in the television marketplace and threaten development of the diverse programming that Hispanic audiences demand.

Many minority groups are encouraging the FCC to delay moving forward with the proposal until fully understanding the consequences. In a letter to the FCC, the National Urban League, the NAACP, LULAC and several other leading civil rights organizations asked if "unlocking the box [could] result in less diversity and fewer successful minority programmers and content producers" and "if so, what is the projected data on the extent/size of the disparity that would result?" During the last House Energy and Commerce Committee oversight hearing, Rep. Yvette Clarke (D-NY) echoed these concerns, suggesting that the FCC put the proposal on hold until it completes an economic analysis and disparity study to examine all the challenges minority and independent programmers face on traditional and emerging video distribution platforms.

App-driven innovations are already fostering unprecedented competition in the video market and providing diverse programmers more opportunities than ever for serving the nation's growing Hispanic community. For that reason, the FCC should carefully consider how its proposal might interfere with an economic model that has proven to be successful. To ensure the vitality and future of independent minority programmers, HTTP urges the FCC to postpone proceeding with its plan to "unlock the box" until there are further studies on how it will impact the marketplace.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rosa Mendoza', written over a horizontal line.

Rosa Mendoza
Executive Director
Hispanic Technology & Telecommunications Partnership