
March 29, 2016



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

Re: Docket No. 16-42

Dear Chairman Wheeler,

The United States Hispanic Leadership Institute (USHLI) appreciates the FCC's recognition of the importance of expanding minority representation in the television industry. However, we are deeply concerned that the Notice of Proposed Rulemaking to impose new mandates on set-top boxes threatens to undermine, rather than advance, the hard-won progress for which our community has fought for years.

USHLI is committed to increasing leadership opportunities for the Hispanic community, including increasing representation and ownership in media. We believe it is incredibly important for members of our community to have access to impactful, high quality television programming that authentically reflects the needs and experiences of our daily lives. Thanks to the tireless drive of entrepreneurs and creators, there is now more diversity and opportunity on both sides of the camera than ever before.

But the FCC's set-top box mandate would threaten this progress. The rule would allow third party technology companies to repackage licensed television programming into their own product offerings for free, without having to negotiate with or pay any licensing fees to the content's owners. This will drive down the value of content and erode the economic foundations of diverse, independent networks.

Television networks – including those serving communities of color – rely on negotiated licensing agreements with distributors to generate revenue, ensure the visibility of their shows in the channel guide, and protect their content from copyright violations. But this proposal would allow device makers to ignore the terms of these negotiated agreements, and would even allow them to add additional advertising around the video streams and menus. Advertisers, as a result, would shift their budgets to spend less money with programmers and more with the tech companies who are getting a free ride on content rights for which they're contributing nothing. How are smaller, independent networks expected to survive if they're forced to hand over programming to competitors for free? Surely, tech giants don't need such a massive federal handout at the expense of minority creators and entrepreneurs.

Our community is particularly concerned that this rule may make it harder for audiences to find niche or minority-focused programming options. The proposal explicitly argues against any rules to prevent box makers from ignoring negotiated channel placement guarantees, re-arranging channels, or replacing traditional channel guides with Google-style search engine interfaces. These changes would benefit shows that are already popular, but greatly disadvantage up-and-coming minority networks that could find themselves buried at the bottom of the heap. It's hard to understand how this outcome would support the Commission's longstanding goal of increasing the availability of diverse content on TV.

This proposal prompts more questions than answers. Dozens of minority programmers, content creators, community leaders, and lawmakers have voiced clear and specific concerns about the likely impact of this mandate – concerns that have largely been dismissed or ignored to date. For this reason, I echo the recent call from the National Urban League and leading civil rights organizations to “hit the ‘pause’ button” on this proceeding until a full, fair, and objective study can be completed that quantifies the impact this mandate will have on the television networks and creators serving communities of color. USHLI strongly opposes any effort to enact such a sweeping mandate without first taking an honest look at how it will impact underserved communities. We've made too much progress to allow a poorly conceived, rushed rulemaking to turn back the clock.

Sincerely,

Dr. Juan Andrade, Jr.
President