

April 11, 2016

Chairman Tom Wheeler  
Commissioner Mignon Clyburn  
Commissioner Jessica Rosenworcel  
Commissioner Ajit Pai  
Commissioner Michael O'Rielly

**Federal Communications Commission**  
445 12th Street, SW  
Washington, DC 20554

RE: Docket number 16-42

Dear Chairman Wheeler and Commissioners of the FCC,

On behalf of the United States Hispanic Chamber of Commerce (USHCC), National Gay and Lesbian Chamber of Commerce (NGLCC), U.S. Pan Asian American Chamber of Commerce (USPAAC), and U.S. Black Chamber (USBC), we would like to address our grave concerns about the sweeping video navigation device rule introduced on February 18.

This proposed rule represents a massive federal intervention into the television marketplace, which has never before been more dynamic or competitive. Far from serving the best interests of minority communities, this rule creates an unfair advantage for large tech companies at the expense of minority content creators and entrepreneurs. Likewise, it is likely to limit the television options available to minority communities as well as undermine diverse media businesses – all while driving up TV costs and eliminating federal statutory protections for viewing privacy.

The Commission has already heard from dozens of programmers, content creators, lawmakers, and community leaders about the devastating impact this rule is likely to have on diverse communities. Much like the 2010 AllVid proposal rejected by President Obama's first FCC Chairman, it embraces a "forced access" model that would allow large tech giants to intercept TV programming, repackage it into their own devices and services, and pile on additional ads without paying anything to the content's creators or owners.

This proposed rule would render negotiated agreements on channel placement and "neighborhoods" unenforceable, leaving diverse programming vulnerable to being buried at the back of the program guide or the bottom page of endless search results.

Moreover, this rule would undermine the marketplace for high-quality programming; stripping content owners of the tools they currently use to protect their rights and forcing them to slog through years-long lawsuits against huge tech companies to fight unauthorized use of their work. At its core, the proposed rule is an assault on copyright and the basic right of creators to determine how, and at what price, their property may be used.

Mr. Chairman you have repeatedly promised that the Commission would address these concerns. But the text of the proposed rule fails to honor that commitment. In fact, in a previous statement you are cited as saying, “[We] do not believe it is necessary to propose any rules to address these issues.” That breach of faith has eroded our trust and leaves us extremely skeptical that the Commission takes the concerns expressed by the diverse programming community seriously.

We’re also deeply skeptical of the claim that this proposal will increase opportunity for diverse content creators by making streaming video services more accessible. Streaming video is already widely accessible—for instance, Netflix has more subscribers than any cable company—and can easily be viewed on almost any screen through smart TVs, streaming boxes, video game consoles, or tablets.

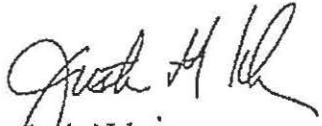
This rule would put existing networks serving diverse audiences at risk, while offering these communities nothing in addition to the streaming services that are already accessible to them today. This is a raw deal for both entrepreneurs and content creators serving communities of color, as well as the audiences who value and depend upon their work.

The FCC claims this dislocation and disruption is necessary to “unlock the box” and save consumers money on cable and satellite TV. Yet most experts predict the proposal will actually increase consumer costs by requiring massive re-engineering of TV delivery networks and additional in-home hardware; an area where arguments made by technical experts have been repeatedly dismissed by the Commission. Nevertheless, even nonprofit Public Knowledge—an organization that advocates for choice in the digital marketplace—admits the rule would require customers to lease an additional box from their TV provider, resulting in more boxes rather than fewer.


In reality, the Commission’s stated goal of saving consumers money can be better met by encouraging and accelerating the market for video apps that can be downloaded free or at minimal expense. Apps from TV providers are already available on hundreds of millions of consumer-owned devices, and some have made their entire programming package available on devices like Roku players or Smart TVs without any need for a leased box at all. Market innovation and free consumer apps would appear to be a much more consumer-friendly approach than a federally mandated second box.

Consumers are already benefiting from a vibrant, dynamic video marketplace, with more devices and services regularly entering the market. It’s the wrong time for the FCC to interfere by putting its finger on the scale for huge tech companies at the expense of diverse content creators and entrepreneurs already working to give their communities more options and choices than ever before.


Respectfully Submitted,




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