

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Expanding Consumers' Video Navigation Choices	)	MB Docket No. 16-42
	)	
Commercial Availability of Navigation Devices	)	CS Docket No. 97-80
	)	

**Comments of CreativeFuture**

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## Executive Summary

One question raised about the Chairman's [set-top box] proposal concerns protection of copyright. *It is always critical that copyright be protected, not just as a matter of law, but in recognition of its role in powering innovation, investment and, of course, the creative arts.* The Chairman's proposal fully respects the copyright interests of content creators.

- Remarks of Federal Communications Commission General Counsel Jon Sallet at the Incompas 2016 Policy Summit, Feb. 10, 2016 (emphasis added).

CreativeFuture emphatically agrees with Mr. Sallet on the importance of copyright. But, for the reasons explained below, we do not believe that “(t)he Chairman’s proposal fully respects the copyright interests of content creators.”

CreativeFuture is a coalition of 450 companies and organizations and over 60,000 individual creatives – both established and emerging – from film, television, music, photography, and book publishing.<sup>1</sup>

CreativeFuture promotes the value of creativity in today’s digital age. We embrace expanded audience access to content in ways that reward creativity and hard work. We are united in opposition to the for-profit digital theft of creative works, which jeopardizes the rights of all creative individuals, puts jobs at risk, and undermines new business models and distribution platforms. Our mission is to empower the creative community to speak with one collective and powerful voice – advancing a positive, dynamic vision of a digital future that better serves audiences and artists alike.

Our coalition is unique in that we have a broad base of creative members from across the creative communities. For our members, copyright is what allows them to make a living while contributing to the cultural fabric of our planet.

Across all creative disciplines, our 60,000+ members are united in the belief that copyright protects creativity and promotes free speech and free expression – acknowledging the

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<sup>1</sup> <http://creativefuture.org/who-we-are/coalition/>

talent and effort behind our creative endeavors. Often, creatives reinvest the financial rewards from their work back into the next project and the next – allowing creativity to continue to flourish.

This is why we are deeply concerned that the set-top box proposal as presented fails to “fully respect” the interests of creatives. Our concern is that the proposed rules would harm our members, creativity, and audiences in ways that the Notice of Proposed Rulemaking (NPRM) fails to contemplate.

We are troubled that the proposed rules would accelerate piracy by permitting third-parties who are not in the copyright chain of title – potentially even “pirate box” manufacturers – the ability to circumvent content security and promote pirated material alongside legal content.

Our Mission states: We embrace expanded audience access to content in ways that reward creativity and hard work. We can appreciate the merits of ensuring that audiences enjoy continuing innovation in the ways they obtain legal content. However, the Federal Communications Commission’s (the “Commission”) proposal is not the answer – and we urge the Commission to consider an alternative approach.

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**COMMENTS OF CREATIVEFUTURE**

CreativeFuture respectfully submits its comments in the above-referenced proceedings.

CreativeFuture is a coalition of 450 companies and organizations and over 60,000 creative individuals encompassing film, television, music, professional photography, and book publishing. CreativeFuture promotes the value of creativity; expanded, legal digital access to content; and the fundamental right of creatives to decide how their works are distributed. We offer these comments to help inform the Federal Communications Commission (the “Commission”) on two key points; (1) the extent and nature of piracy; and (2) the extent and nature of pirate box manufacturers, and the presumably unintentional impact of the Commission’s proposal on both of these concerns.

*I. Piracy Is a Large Criminal Enterprise That Hurts Creatives and Audiences Alike*

The Commission has correctly noted that “it is always critical that copyright be protected.” We obviously agree. Yet we are concerned that the NPRM fails to fully acknowledge and consider the backdrop of piracy and the potential unintended increased risks of piracy arising from the Commission’s approach.

Pirate sites are among the most widely-visited internet pages in the world. For example, three of the leading content theft sites – thepiratebay.se, torrentz.eu, and putlocker.is – have global Alexa rankings in the 220s, meaning that *only about 220 websites in the entire world* receive more annual visitors. Those pirate sites have more visitors than such well-known and frequently visited e-commerce and informational sites as homedepot.com (238); about.com (246); capitalone.com (257); and bestbuy.com (258), to name a few. Just as on bestbuy.com,

visitors come to pirate sites to obtain goods. However, unlike bestbuy.com, the goods they obtain are stolen, and the pirate sites pay nothing for the valuable content that drives visitors to them.

These pirate sites are big businesses. In 2014, some 600 pirate sites generated an estimated \$209 million in revenue from advertising alone—a significant portion coming from major brands.<sup>2</sup> Thirty of the top “cyberlockers,” storage sites built to facilitate the illegal upload and exchange of copyrighted content, made \$96.2 million in total annual revenue – with one site making \$17.6 million.<sup>3</sup> Profit margins for cyberlockers are as high as 86 percent,<sup>4</sup> due to the high demand for stolen content and low overhead cost since their valuable wares are stolen from those who created and invested in them.<sup>5</sup>

All of this causes real harm to creatives. Claims that piracy provides helpful “free marketing” are a convenient and completely false rationalization. Indeed, upon surveying the peer-reviewed academic literature on the impact of piracy on sales, researchers from Carnegie Mellon found that 22 of the 25 studies showed piracy reduces the revenue creatives make from

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<sup>2</sup> Digital Citizens Alliance, *Good Money Still Going Bad: Digital Thieves and the Hijacking of the Online Ad Business*, at 2, 3 (May 2015), available at <http://www.digitalcitizensalliance.org/cac/alliance/resources.aspx>.

<sup>3</sup> NetNames Report, *Behind the Cyberlocker Door: A Report on How Shadowy Cyberlocker Businesses Use Credit Card Companies to Make Millions*, Digital Citizens Alliance, at 1 (September 2014) available at <http://www.digitalcitizensalliance.org/cac/alliance/resources.aspx>.

<sup>4</sup> NetNames Report, *Behind the Cyberlocker Door: A Report on How Shadowy Cyberlocker Businesses Use Credit Card Companies to Make Millions*, Digital Citizens Alliance, at 1, 28 (September 2014) available at <http://www.digitalcitizensalliance.org/cac/alliance/resources.aspx>.

<sup>5</sup> These sites earn money from advertising, subscriptions, and by infecting computers that visit their site with malware. A recent study demonstrated that one out of every three pirate sites contained malware, and that pirate sites reap some \$70 million a year just by infecting visiting computers with malware, enabling the computers to be used for criminal purposes. Digital Citizens Alliance, *Digital Bait: How Content Theft Sites and Malware Are Exploited by Cybercriminals to Hack Into Internet Users’ Computers and Personal Data*, at 1, 24 (Dec. 2015), available at <http://www.digitalcitizensalliance.org/cac/alliance/resources.aspx>.

legal sales.<sup>6</sup> Lost revenue means creatives cannot keep investing in – and making – quality movies, TV shows, books, and music. This harms creatives and audiences alike.

## *II. The Federal Communications Commission’s Set-Top Box Proposal Would Unintentionally Increase Piracy*

During the lead-up to the official release of the Commission’s set-top box proposal, General Counsel Jon Sallet told the audience at the February 2016 Incompas policy summit that “[i]t is always critical that copyright be protected, not just as a matter of law, but in recognition of its role in powering innovation, investment and, of course, the creative arts.”<sup>7</sup> Mr. Sallet told the same audience that “[t]he Chairman’s proposal fully respects the copyright interests of content creators.”<sup>8</sup> Chairman Wheeler made the same argument one week later when the Commission officially adopted and released the proposal. In his attached written statement, he said it “will not interfere with the business relationships or content agreements between MVPDs and their content providers or between MVPDs and their customers. This proposal will not open up content to compromised security.”<sup>9</sup> We have reviewed the Commission’s proposal in light of these professed concerns, and we are deeply concerned that the proposal fails to meet this standard.

Protecting content from theft is not just a policy preference; it is a statutory obligation. Section 629 of the Communications Act prohibits the Commission from adopting set-top box

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<sup>6</sup> Michael D. Smith, *The Truth About Piracy*, Technology Policy Institute, <https://techpolicyinstitute.org/2016/02/02/the-truth-about-piracy/>

<sup>7</sup> Remarks of Jon Sallet, General Counsel, FCC, “20th Anniversary of the Telecom Act,” as prepared for delivery at Incompas 2016 Policy Summit, Newseum, Washington, D.C. (Feb. 10, 2016) (emphasis added), at [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-337681A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-337681A1.pdf).

<sup>8</sup> Remarks of Jon Sallet, General Counsel, FCC, “20th Anniversary of the Telecom Act,” as prepared for delivery at Incompas 2016 Policy Summit, Newseum, Washington, D.C. (Feb. 10, 2016) (emphasis added), at [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-337681A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-337681A1.pdf).

<sup>9</sup> Statement of Chairman Tom Wheeler, at 2, *In re* Expanding Consumers’ Video Navigation Choices, MB Docket No. 16-42, *NPRM*, FCC 16-18 (rel. Feb. 18, 2016).

regulations that “would jeopardize security of [pay-TV] programming and other services offered over [pay-TV] programming systems, or impede the legal rights of a provider of such services to prevent theft of service.”<sup>10</sup>

Specifically, the proposal weakens security by not respecting the terms of the contractual relationships between copyright holders and pay-TV providers, essentially forcing them to use “least common denominator” digital rights management technologies that may be less robust than those already used in the marketplace,<sup>11</sup> thereby limiting the options available for protecting valuable creative works. The Commission’s proposal provides no assurance that the security provisions and technologies agreed to by the MVPD and the programmer will be those that are passed through to any third party. The fact that the proposal applies to software – where security protections are not as robust – heightens our concerns with the lack of security assurances.

The proposal would also require content providers to make each licensed program and associated “entitlement data” available to third parties pursuant to a yet-to-be-created “open standard.”<sup>12</sup> The proposal seems to assume, but gives no assurance that, open standards – not now in existence – can be developed to ensure the terms of contracts between programmers and MPVDs will be adhered to by non-contracting parties who get access to the copyrighted content through regulation rather than by negotiation. But the proposal does not specify how, or by whom, the “open standards bodies” will be appointed to develop these new protocols – or what guidelines the bodies will have to abide by in developing these protocols. It appears clear, however, that the voice of creatives in the process will be seriously diluted. Given these issues and the unrealistic two-year timeline for implementation, this is a process that is destined to fail. When it does, the default option appears to be a standard set by an organization in which

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<sup>10</sup> 47 U.S.C. § 549(b).

<sup>11</sup> *NPRM* at ¶¶ 2, 50, 58-60.

<sup>12</sup> *NPRM* at ¶¶ 2, 35-37, 40.

creatives have no real voice. That is unacceptable – and the mere fact that the Commission proposal defaults to that outcome shows insufficient concern about copyright protection and content security.

### *III. Presenting Stolen Content Alongside Licensed Programming*

The concern about the impact of the Commission’s proposal on piracy can be illustrated by the fact that there would be no prohibition – even by the passing through of contractual provisions – on mixing and matching pay-TV and infringing web content in the same guide, allowing presentation of both legitimate and pirated material on equal footing.<sup>13</sup> Search engines today direct consumers to an abundance of stolen content on the internet when they use computers or mobile devices. In contrast, pay-TV services offer a secure environment, in part because licensing agreements ensure that the secure environment offers only legal content.

The rules proposed in this proceeding, however, would allow technology and platform providers and pirate box manufacturers to import the piracy problem into the pay-TV services environment for the first time, unrestricted and unprotected by licensing agreements or Commission rules. Not restricting the presentation of pirate material, and not respecting contractual provisions that would do so, would inevitably increase the consumption of pirated content and drive down the value of licensed content for which the creators are compensated.

To be clear, part of the struggle with pirated content is that viewers – and even the most ardent fans of a show – may not realize they are being served up illegal copies. For example, numerous apps have been developed, such as Popcorn Time (discussed below), that lend an aura of legitimacy to pirated content by presenting it in formats that are often just as attractive as those of many legitimate over-the-top services such as Netflix, Amazon, and Hulu. This is not mere speculation. A recent study shows that users are more likely to choose legally when legal

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<sup>13</sup> *NPRM* at ¶ 80 & n.231.

sites are prioritized over pirate sites – and they are more likely to consume pirated content when pirate links are promoted.<sup>14</sup>

The Commission’s approach would import internet piracy problems into the now relatively protected MPVD environment. The result would be the frequent presentation of stolen content alongside licensed programming. That would elevate the role of stolen content in the distribution system. From past and current experience with information location tools, it is not difficult to understand why that would happen in the context of program guides that will inform the consumer about available content.

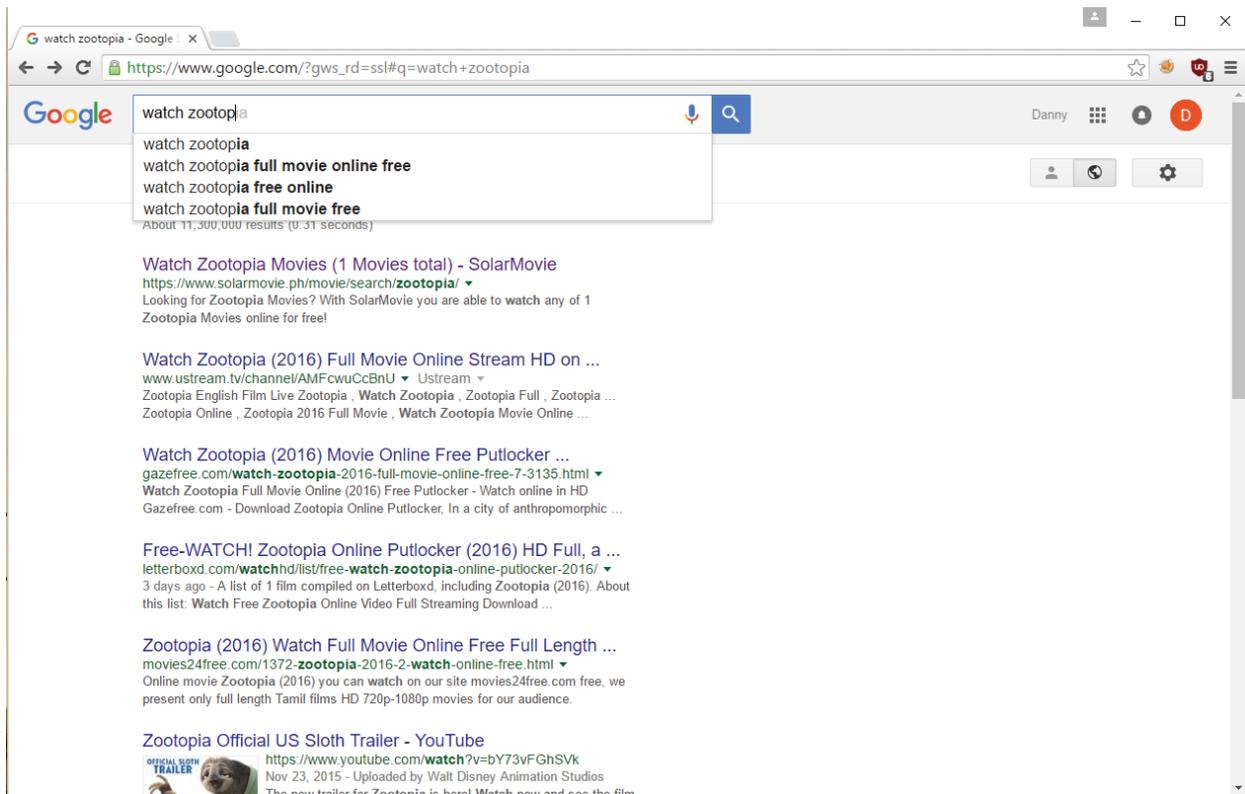
To take an example, a set-top box, application or web solution incorporating a search functionality would most likely crawl both pay-TV and internet content, since the Commission and certain search engines tout such cross-platform indexing as a main feature of the proposal.<sup>15</sup> Experience with search today suggests that stolen content would be featured alongside with, and sometimes *more prominently* than, licensed content.

An actual online search is instructive. The screenshot below shows that when a user starts to type “watch zootop” into Google Search, the “autocomplete” function suggests that the search phrase should be completed with “full movie online free,” “free online,” or “full movie free.” When the autocomplete offered to the consumer is accepted (even if this is not what the consumer was originally looking for), Google then provides a list of sites – with the top four results all directing the user to well-known pirate sites.

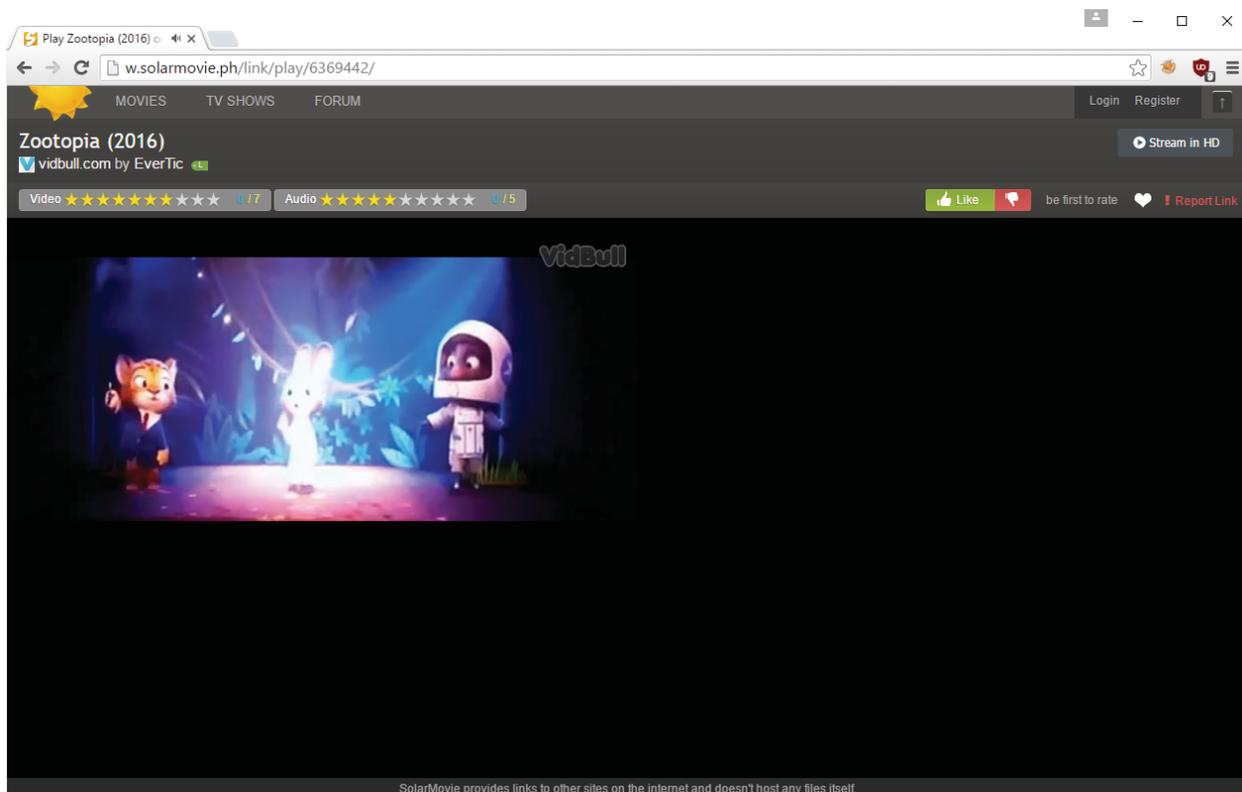
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<sup>14</sup> L. Sivan, M. Smith, and R. Telang, Do Search Engines Influence Media Piracy? Evidence from a Randomized Field Study (September 12, 2014), *available at* <http://ssrn.com/abstract=2495591>.

<sup>15</sup> *NPRM* at ¶ 80 & n.231.



The first link brings the user to a *Zootopia* landing page on SolarMovie – where clicking on the page gives the viewer access to an illegal, high-quality copy of the entire movie (screenshot below).



A set-top box or application might even push stolen content to viewers through a recommendation engine. Again, this is not mere speculation. As TorrentFreak recently reported, Google Now, Google’s personal digital assistant, suggested to a user (whose search patterns indicated that he was interested in the movie *Deadpool*) that he visit a torrent site to view a stolen copy of *Deadpool* while it was still in theaters – all this without the user having indicated any interest in seeing an illegal copy of the film.<sup>16</sup>

Whether done passively or actively, whether by an application or through similar means, the result could be to enable – or even divert – audiences to watch a movie or program for free through a pirate site rather than “on-demand” or through otherwise legitimate channels on the pay-TV service. The device providing companies still make money from ads and get to exploit the personal data they collect, whether the user watches the legal version or the pirate version –

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<sup>16</sup> *Google Now Card Offers Deadpool Piracy Advice*, <https://torrentfreak.com/google-now-card-offers-deadpool-piracy-advice-160322/>

but of course, viewing from pirate sources means *no* compensation for the creatives responsible for making the content.

The availability of pirated content on the internet is already a problem – and undercutting the pay-TV market by ignoring contractual protections and unintentionally promoting piracy would only exacerbate matters, as *The Walking Dead* producer Gale Anne Hurd explained in a recent op-ed,<sup>17</sup> attached as Appendix A. With a diminished return on investment, creatives will have a more difficult time producing high quality content. This will directly affect the programming diversity that audiences crave – and, just as importantly, it will harm the two million people who make a living directly or indirectly in the film and television industry. Film and television production crews will have less work and less income – both from the filming itself and the health, pension, and welfare benefits they accrue from programming and movie revenues.

To be clear, we have no objection in principle to connecting Smart TV’s, set-top boxes, and similar navigation devices to the internet, which may be beneficial to creatives, distributors, and consumers when done correctly. However, we believe that respecting the contractual ecosystem is the best way to accomplish that. That permits the parties involved in the chain of distribution to develop the necessary standards and protections in a commercially appropriate and technologically flexible way.

#### IV. *The Proliferation of “Pirate” Set-Top Boxes*

We are also concerned that adoption of the Commission’s proposal would lead to the proliferation of “pirate” set-top boxes: low-cost boxes which, after being manufactured “clean” to enable them to obtain the programming streams from MVPDs, would then be loaded with piracy apps by third parties and sold at a premium. Our concern is that the Commission’s

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<sup>17</sup> <http://www.usatoday.com/story/opinion/2016/04/12/fcc-set-top-box-proposal-cable-internet-piracy-walking-dead-zombies-gale-hurd-column/82919704>

proposal with respect to certification and enforcement would not prevent these boxes from being included in the scope of the Commission's proposal. As described below, these boxes would enable the viewer to use a single box to access whatever programming the viewer has paid for from the pay-TV provider, plus a full array of illegal movies, television shows, and live channels.

The Notice of Proposed Rulemaking does not address the issue of pirate set top boxes. And thus, we are filing these comments to inform the Commission about this problem. By way of background, this is not a hypothetical issue. Such boxes (currently without the government-mandated access to pay-TV programming that these rules would provide) are currently being sold to a small but growing number of consumers in the United States, who use them as a supplemental tool to easily access pirated content on their televisions. These pirate boxes would become far more attractive to consumers if they could use them to replace their current set-top box for an all-in-one viewing experience, giving illegitimate content equal (or even preferred) standing in the living room with legitimate content. This would be disastrous for the creative community.

*A. The Piracy Boxes of the Present*

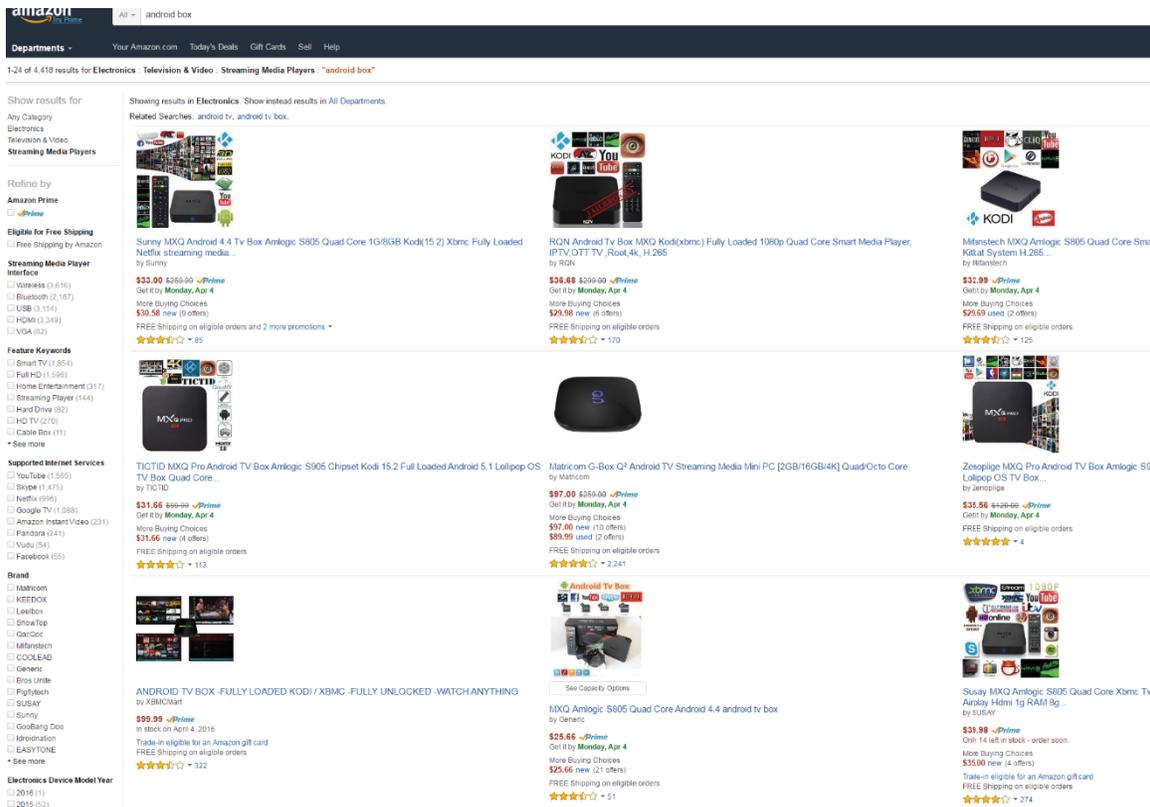
There are many set-top boxes, generally manufactured in China, that run on an Android operating system and can easily be configured to enable film and TV piracy.<sup>18</sup> The boxes are originally sold without pre-loaded apps, at a wholesale price of somewhere between \$20 and \$75. The middleman or the ultimate retailer buys boxes in bulk, loading them with apps that enable access to pirated film and/or TV content available for streaming by the user ("Piracy

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<sup>18</sup> Some of the better known set-top boxes include Xiaomi, TV Pad, SuperPad, HEVC, Matricom, 1OTT, and World's Best Box.

Apps”). Boxes loaded with Piracy Apps are then offered for sale to the public for as much as \$350 – representing an enormous profit margin for the retailer.<sup>19</sup>

Consumers in the U.S. can obtain a set-top box pre-loaded with Piracy Apps from a variety of sources. The screenshot below shows several such devices already available through Amazon.com:



These devices generally come loaded with Piracy Apps. The product descriptions clearly indicate that users will be able to watch infringing content, such as “movies in theaters” and “TV shows without commercials . . . for FREE.”

<sup>19</sup> A consumer who pays \$350 for a set-top box may be misled to believe that he or she has “purchased the right” to watch the content through the apps loaded on the box.



**\*PLUG-N-PLAY\*** Matricom G-Box Q<sup>2</sup> Quad/Octo Core XBMC/Kodi Android TV Box [2GB/16GB/4K]  
**\*FULLY PROGRAMMED\***

by Empire Distributions

★★★★☆ 42 customer reviews | 27 answered questions

List Price: \$240.00

Price: \$149.00

Sale: **\$113.00 & FREE Shipping.** Details

You Save: \$97.00 (46%)

In Stock.

**Want it Monday, April 11?** Order within **18 hrs 57 mins** and choose **One-Day**

**Shipping** at checkout. Details

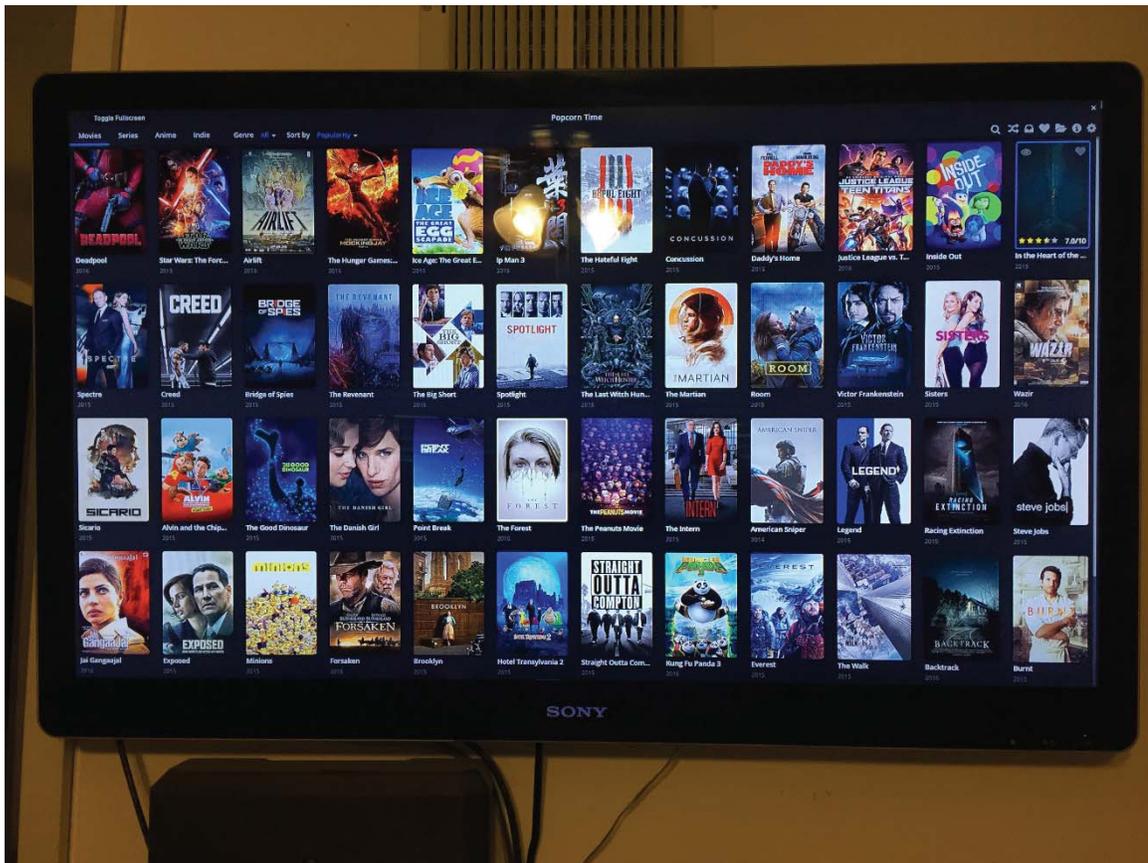
Sold by Empire Distributions FL and Fulfilled by Amazon.

- FREE YOUR TV! With a Fully Programmed version of KODI 16.0, you'll never be a slave to your TV and cable schedule again! Watch movies in theaters, TV shows without commercials, Live TV ... for FREE
- Videos: 1Channel, 2Movies, ChannelPear, Exodus, Genesis, Phoenix, SALTS, SportsDevil, USTVNow, Velocity and much more!
- Also comes programmed with Mobdro, Showbox and Popcorn Time!
- Surf the web, check email, play games - this is a mini computer!
- Disclaimer - These add-ons are managed and run by a third-party and should not be a direct reflection of how the box runs or operates as these add-ons sometimes have issues with connectivity, speed, buffering and quality

In addition to Amazon, pirate set-top boxes can be obtained through other well-known online marketplaces including eBay and Craigslist. In addition, such boxes can be found at brick-and-mortar vendors in shopping malls and kiosks.

Once purchased, the boxes and apps are as simple to set up and use as Apple TV. The consumer connects the box both to the internet and to their television. Once connected, the box's software provides a user interface that is viewable on the television. When the user selects from the list of Piracy Apps, the television displays the content offered by the app.

A wide variety of Piracy Apps is generally pre-loaded on the piracy box. The app pulls the content over the internet from the source or sources specified by the app designer. Some Piracy Apps, like "Popcorn Time" (shown below), allow access to an immense variety of popular movies and television shows, with high-quality resolution – all for free.



The Popcorn Time app displays the titles and thumbnails of popular movies and television shows, along with key artwork for each title. By clicking on a title, the user is given access to a pirated copy of that film or show with a choice of resolution quality (720p or 1080p), as well as subtitles in different languages. Once the user has made his or her selection, the movie promptly streams on the television. Piracy Apps like Popcorn Time provide an easy-to-use interface similar to popular licensed services such as Netflix or iTunes. However, neither Popcorn Time nor the user pays a cent to creatives for the content provided.<sup>20</sup>

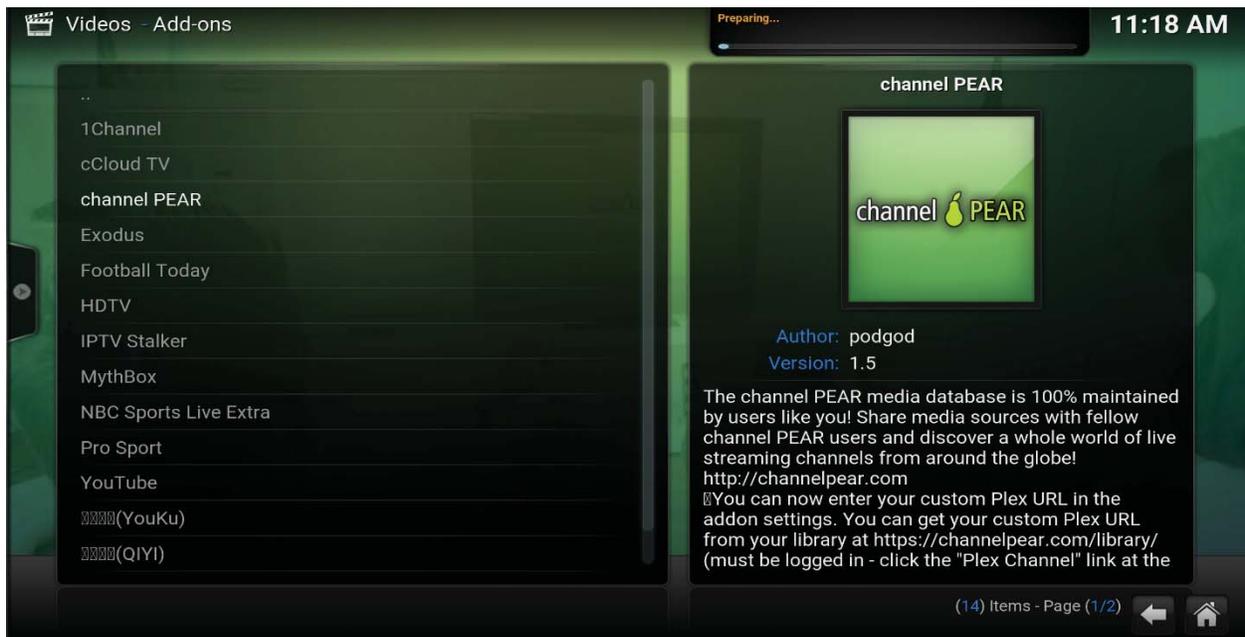
Other Piracy Apps loaded onto the set-top box allow live access to channels from around the world, including broadcast, cable, and premium channels in the United States. These Piracy

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<sup>20</sup> Popcorn Time uses the BitTorrent peer-to-peer network to obtain content. In other cases, the content may be hosted in the cloud. Identifying the host of the content and/or the developer or operator of the app itself requires a highly labor-intensive investigation, and often results in a finding that the operator is in a location outside of U.S. jurisdiction.

Apps operate by connecting users to live streaming servers that illegally aggregate pirated television channels from satellite feeds, cable feeds, IPTV television feeds, and TV Everywhere online services.

An example is the “Channel PEAR” app shown below. The app organizes the pirated channels into, among other categories, “Entertainment, Sports, and Premium.” Once the user clicks on a desired channel, after a very short delay, it begins to stream. The user is then watching live television for free.



While the Channel PEAR app is free to users, other apps charge a subscription fee. For example, as shown below, an app called “TV Away” charges \$120 per year for access to a wide range of U.S. and international stations – much less than a cable subscription because, of course, the App developers pay nothing to the programmers or creatives.



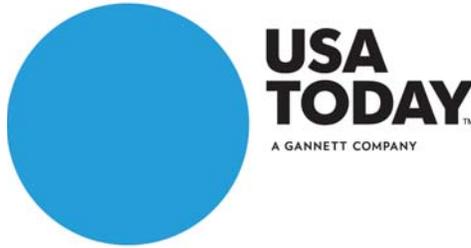
### *B. The Piracy Boxes of the Future*

The piracy set-top boxes described above, while a growing threat, have not yet significantly penetrated the U.S. market. Pirated content is still generally accessed through computers and tablets. However, we are concerned that should the Commission's proposed rule be adopted as it stands, the market for pirate boxes would grow dramatically. If permitted to take advantage of the Commission's new proposal, the low-cost manufacturers would be given the legal right to tap the programming streams (and program guide metadata) from the pay-TV providers – and either they or middlemen could load the boxes before or after installation with Piracy Apps, as they are doing now. In this world of tomorrow, the pirate app manufacturer or distributor could be using the Commission's proposal as a way to increase piracy at the expense of the legal, licensed content that supports our creative community. We urge the Commission to address this issue.

V. *Conclusion*

Ordinarily, CreativeFuture would not participate in a proceeding on a technical topic such as the Federal Communications Commission “navigation device” rules. But, as creatives, we are concerned that the Commission has not adequately considered the proposal’s impact on piracy. In particular, by failing to respect contractual provisions and failing to adopt sufficient enforcement mechanisms, the Commission’s proposal – even if unintentionally – would promote piracy.

Thus, we urge the Federal Communications Commission to pause and fully assess the impact of its proposal on piracy. The Commission should not be giving a boost to pirates, harming creatives and audiences alike. We agree that “[i]t is always critical that copyright be protected, not just as a matter of law, but in recognition of its role in powering innovation, investment and, of course, the creative arts.” As proud members of the creative community, we firmly believe that the proposed rules fail that important test. We urge the Commission to reconsider its proposal.



## Appendix A – Stop Piracy Apocalypse: 'Walking Dead' Producer

April 12, 2016

By Gale Anne Hurd

Back in December of 2013, I attended *Variety*'s Content Protection Summit and delivered what turned out to be a pretty prophetic statement:

“There’s a mistaken belief by many of my peers that piracy is somehow good. ... I’m not sure they really understand ... that the people who pirate are not then going to choose legal downloads or legal viewing in the future.”

In February, researchers from Carnegie Mellon University released a study in which they sought to determine whether the promotional impact of piracy (the benefit of buzz) outweighs the harm caused by piracy.

Spoiler alert: It doesn't.

On the heels of this affirmation, I'm feeling emboldened to make another prediction — and I think this one is a slam-dunk:

If the Federal Communications Commission approves Chairman Tom Wheeler's regulatory proposal to “open” set-top boxes, it will make piracy as easy and dangerous in the living room as it is on laptop and mobile devices.

Wait, you didn't know piracy was rampant on the Internet? Well, the figures shocked even me, and as a producer of horror and science fiction, I'm not easily scared.

The Season 5 premiere of my show *The Walking Dead* was illegally downloaded by roughly 1.27 million unique IP addresses worldwide within 24 hours of its debut.

If we can agree that piracy on that scale is a serious problem, then let me explain why the FCC's proposal would spell disaster for those of us who are trying to figure out how to keep making the movies and TV shows audiences love. And I'm not talking about just the actors and the producers. Hundreds of thousands of crewmembers across the country will be out of jobs, too. Studios and networks can't keep making content if they stop receiving revenue from legitimate sources.

In 2010, the FCC issued a proposal backed by a handful of tech companies that would have allowed them to repurpose pay-TV content for their own commercial gain — by charging fees, selling advertisements and collecting data — without having to enter into the kinds of

agreements that ensure the people who created that content are actually compensated for doing so.

Fortunately, the FCC declined to pursue the AllVid proposal because of legal, technological and policy concerns. But now Chairman Wheeler has proposed his own set-top box regulations — and they are unsettlingly similar to the 2010 AllVid mandate.

The impact of the new proposal is to replace set-top boxes with an open standard where Web content — both legitimate and pirated — can be presented on equal footing.

This proposal would end up reducing the security options available to prevent theft. TV distributors use complex security systems to ensure that the creative content on their networks, set-top boxes and apps all comply with the appropriate creative licenses and restrictions. In contrast, search engines such as Google and digital video platforms such as YouTube routinely show — and prioritize — stolen content in search results.

It would also allow Google — and for that matter set-top box manufacturers from all over the world, including China (where rogue boxes are being built by the millions) — to create and market applications or boxes with software that will treat legitimate and stolen material exactly the same, and could in many cases help steer consumers to piracy.

This is a real threat. Google's search engine does this today. Here's what happens when I search "watch *Fear the Walking Dead*": After the paid results, the first option is AMC and the second is a pirate site — literally, side by side.

While you might not think the placement of pirate and legitimate sites matters in search results like this, a recent experiment showed that users are more likely to purchase legally when legal sites are prioritized over pirate sites — and they're more likely to pirate when pirate links are promoted.

Chairman Wheeler's set-top box proposal places no restrictions on search results. If approved, it would allow device-makers to prominently display pirated content from the Internet alongside legitimate options — just like in my "watch *Fear the Walking Dead*" Google search.

Imagine Madison Square Garden being forced to open its doors to allow street vendors to sell fake and knockoff New York Knicks merchandise alongside the legitimate items in the stadium stores. Think of the advantages the street vendors would enjoy by not paying to license the goods they were selling.

So why would the federal government want to reward Google and rogue set-top box manufacturers with rules that will put stolen content in competition with legitimate content on TV sets across America?

That's a question only the FCC and Tom Wheeler can answer.

As for me, let's think about the fact that it took a couple of years and a few million piracy transactions for people to start realizing that online piracy is a problem.

The FCC should reject this new AllVid proposal and help prevent piracy from becoming as prevalent in the living room as it is on laptop and mobile devices. If the commission doesn't, I'm afraid that all of us who create, market and broadcast legitimate content will be like the zombies on my show: the walking dead.

Don't get me wrong. I *love* zombies. But the AllVid proposal is an idea that should never have been brought back from the dead.

*Gale Anne Hurd is a producer of films and television shows, including the Terminator trilogy, Aliens, Armageddon and The Walking Dead.*