



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0529**

September 22, 2016

Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

Dear Chairman Wheeler and Commissioners of the FCC:

We are writing to express our concerns with the Commission's proposed September vote on new set-top box rules and urge the FCC to issue a Further Notice of Proposed Rulemaking (FNPRM). You have heard from more than 200 of our House and Senate colleagues from both sides of the aisle in response to the February Notice of Proposed Rulemaking (NPRM), communicating concerns expressed by constituents and businesses in our districts. We appreciate your effort to incorporate some of the suggestions you received during the comment period, however, the most recent proposal being voted on by the Commission is significantly different from the proposal that we had the opportunity to review and comment on.

Since the FCC can use a FNPRM to receive comment on a new or modified proposal, we believe this is appropriate to allow the public to weigh in on this revamped version of the February proposal. This proposal addresses an important issue for consumers and initiating a FNPRM could help the FCC withstand a potential legal challenge since it does not appear that some of the ideas in the new proposal have undergone public comment as the Administrative Procedures Act requires.

The creation of a standard license with which all device manufacturers, pay-TV providers, and programmers would have to comply strikes at the heart of the way content creators exercise their copyrights, as guaranteed by Section 106 of the Copyright Act. We are concerned that a standard license would encroach upon the highly competitive and complex licenses carefully negotiated between content creators and pay-TV providers. As you know, these licensing agreements cover much more than the programming itself and channel placement, but also extend to search, advertising, security protocols, and display of content to the pay-TV subscriber, among other things. We remain particularly mindful that Congress has not granted the FCC with jurisdiction over program licenses under either the Copyright Act or the Communications Act.

It is difficult to analyze the full scope of the standard license and the FCC's role in developing and enforcing this license without knowing the full details of the proposal. Commissioners should have the opportunity to place their vote knowing how the industry will be impacted and it is imperative that any new rules be adopted through a transparent and inclusive process. For these reasons, we urge that you issue a FNPRM for the most recent proposal to promote competition in the set-top box market.

We appreciate your work and hope that the Commission will continue to embrace transparency throughout this process. As time is of the essence, we look forward to hearing from you soon.

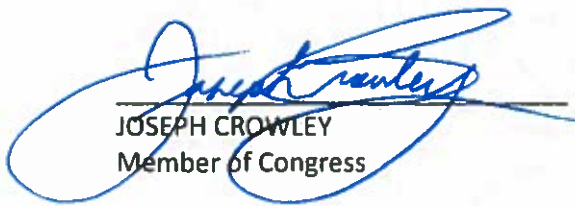
Sincerely,



TONY CÁRDENAS  
Member of Congress



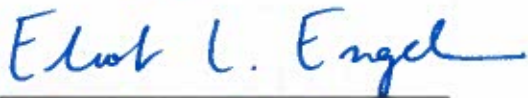
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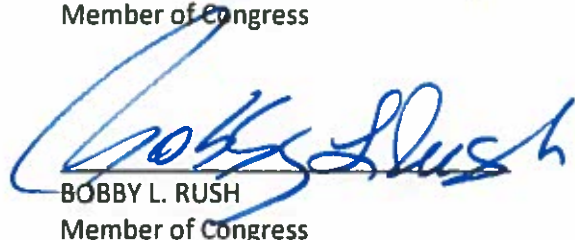
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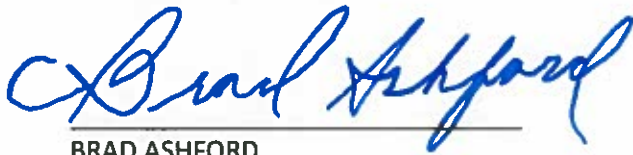
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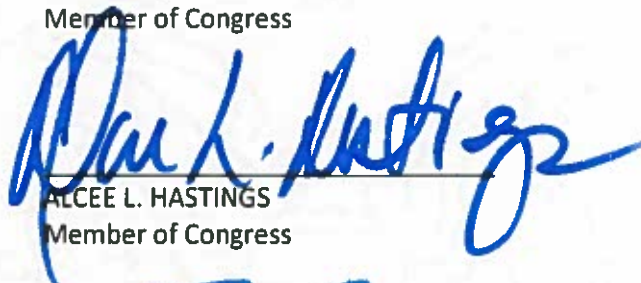
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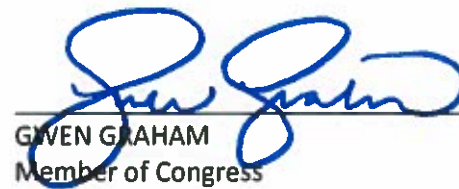
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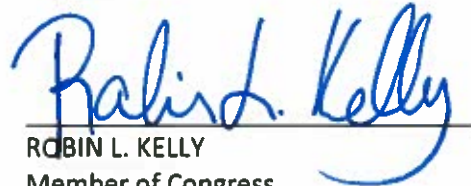
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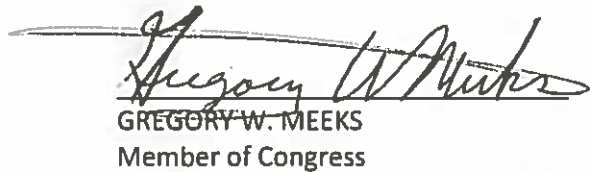
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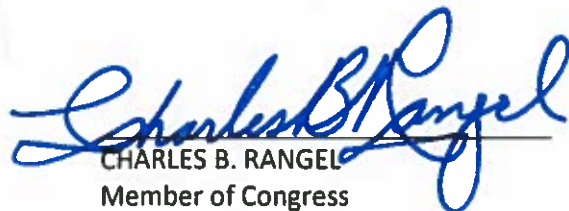
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LUCILLE ROYBAL-ALLARD  
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*Brad Sherman*

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BRAD SHERMAN  
Member of Congress