

United States Senate

WASHINGTON, DC 20510

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SPECIAL COMMITTEE ON AGING

September 28, 2016

Chairman Tom Wheeler
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

As the Federal Communications Commission (FCC) prepares to vote Thursday on a proposal addressing the set-top box market, I urge you to delay consideration of the proposal given outstanding questions over consumer privacy. As a strong supporter of competition and innovation in the video marketplace, I recognize the industry has been innovating by exploring an apps-based approach to content delivery; however, I have concerns about how the FCC's proposal requiring this approach will impact my constituents' privacy and whether it is technology neutral. These issues also stem from the lack of transparency in the process leading up to the final proposal, the text of which has not been released to stakeholders, Congress, and the American public prior to a vote. I believe there are questions that need to be answered and these concerns need to be addressed before moving forward. As a member of the Senate Commerce Committee, which has jurisdiction over the FCC, I appreciate the opportunity to address this matter that will impact Nevada's consumers and their privacy.

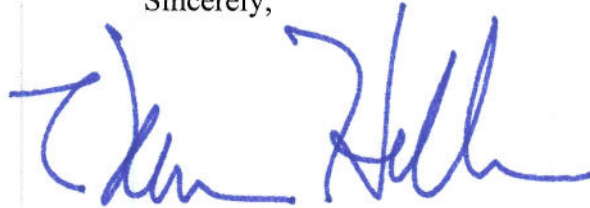
Firstly, I have concerns about how this rule impacts consumer privacy—which is one of my top priorities in the Senate. Nevadans in particular are sensitive about their personal information and what is done with it. On top of that, U.S. companies continue to experience data breaches that can wreak havoc on a consumer's finances and privacy. That is why there are privacy protections in place to address the rules of the road for handling personal information and data breaches for multichannel video programming distributors (MVPDs). Yet, this rule will result in MVPDs handing over consumers' personal information to third-party developers using their own platforms without addressing how that information can be utilized and what recourse consumers have if there is a data breach of third-party developers. This is not technology neutral and not beneficial to consumers. That is why I request that you delay voting on this proposal until these privacy concerns are resolved.

I also have strong concerns with the process the rulemaking has undertaken. As the advocate in the Senate for bringing greater transparency to the FCC and its rulemaking process, I believe it is unacceptable that the FCC has not released the text of this proposal before Thursday's vote. A three-page fact sheet does not provide enough details for Congress to

conduct proper oversight of this rulemaking that will significantly impact both consumers and industry. For years, I have been pushing the FCC to release the text of rules before the Commissioners are required to vote, and the Senate Commerce Committee passed my legislation, the FCC Process Reform Act (S.421), earlier this year to require such disclosure 21 days prior to a vote. I encourage you to release the text immediately so that the American public has a full understanding of what is being considered by the Commission and whether it will adequately protect consumers, as well as rural pay-tv providers.

Again, until the issues of full transparency and protecting consumer privacy are addressed, I urge you to delay consideration of this proposal and request a response to this letter by October 12, 2016. Thank you again, and I look forward to continue working with the FCC to ensure a competitive marketplace that benefits consumers and innovation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dean Heller". The signature is fluid and cursive, with the first name "Dean" and the last name "Heller" clearly distinguishable.

DEAN HELLER
U.S. Senator