

*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
**WASHINGTON, DC 20554**

In the Matter of	)	
	)	
Downloadable Security Technical	)	MB Docket No. 15-64
Advisory Committee Report	)	
	)	

**COMMENTS OF THE WRITERS GUILD OF AMERICA, WEST, INC.**

Ellen Stutzman  
*Director, Research & Public Policy*

Marvin Vargas  
*Senior Research & Policy Analyst*

Writers Guild of America, West, Inc.  
7000 West Third Street  
Los Angeles, CA 90048  
(323) 951-4000

October 8, 2015

## **I. Introduction**

Writers Guild of America, West, Inc. (“WGAW”) is pleased to submit the following comments in response to the Federal Communication Commission’s (“FCC”) request for comments on the final report that the Downloadable Security Technical Advisory Committee (“DSTAC”) submitted to the FCC.

WGAW is a labor organization representing more than 8,000 professional writers working in film, television and digital media, including news and documentaries. Virtually all of the entertainment programming and a significant portion of news programming seen on television and in film are written by WGAW members and the members of our affiliate, Writers Guild of America, East (jointly, “WGA”). WGA members are also the creators of original programming available online through services such as Netflix, Amazon, Hulu and Crackle. WGAW is an advocate for a media marketplace that features competition at all stages of the value chain and allows diverse stories created by writers an opportunity to reach the public.

Nearly 20 years after Congress directed the FCC to assure a competitive market in cable set-top boxes, consumers continue to face limited choice in that market. Senators Markey and Blumenthal’s recent findings reveal as much. According to the Senators, “With approximately 99 percent of customers renting their set-top box directly from their pay-TV provider, the set-top box rental market may be worth more than \$19.5 billion per year, with the average American household spending more than \$231 per year on set-top box rental fees.”<sup>1</sup> The lack of competition in multichannel video programming distributor (“MVPD”) devices is a result of

---

<sup>1</sup> Press Release, Markey, Blumenthal Decry Lack of Choice, Competition in Pay-TV Video Box Marketplace, July 30, 2015, <http://www.markey.senate.gov/news/press-releases/markey-blumenthal-decry-lack-of-choice-competition-in-pay-tv-video-box-marketplace>.

industry efforts to make using third party equipment difficult or impossible and stands in stark contrast to the vigorous competition in nearly all other consumer electronics.

We urge the Commission to carry out its legal mandate to create a competitive market and to resist industry pressure to eviscerate any reasonably effective regulations. The time to act is now. The Internet has expanded content choices and created a new market of Internet-connected set-top devices that has innovated how consumers may access video programming from their television. But MVPDs have been slow to make content available to competitive devices, making it necessary for consumers to purchase and use multiple devices to access video. For these reasons, the Commission should adopt the recommendations in the DSTAC report that further actual marketplace competition rather than those that reinforce incumbents' market position. Namely, the FCC should implement the "Competitive Navigation" proposal based on a virtual headend. This would allow third party navigation device makers to give consumers greater choice in what user interface (UI) they use. At the same time, the Commission must avoid the mistakes made in implementing CableCARD such as making unnecessary exemptions for non-cable MVPDs and failing to ensure that third party devices can replicate the functions available in MVPD-provided boxes.

## **II. A Competitive Set-Top Box Market Benefits Content Creators and Consumers**

A competitive set-top box market would provide significant benefits to both consumers and content creators. For decades, MVPDs have controlled what video programming is available in American homes. The rise of the Internet as a distribution platform for content has begun to challenge this hegemony. Online video distributors ("OVDs") have emerged to produce and exhibit original programming, increasing competition for writers' ideas and viewers' attention.

To make this content more easily available to viewers on their television screen, a vibrant and competitive market of Internet-connected set-top devices has emerged. In only a few years, this market has seen the rise of numerous choices and falling prices, which are hallmarks of competition. Consumer adoption demonstrates the pent-up demand that exists for both online video programming and new devices. Apple announced in 2014 that it had sold 20 million Apple TVs in the U.S., while Roku has sold 10 million of its devices.<sup>2</sup> Overall, about one in five U.S. broadband households now owns a video streaming device.<sup>3</sup>

In contrast, MVPD set-top boxes have become more expensive to consumers as MVPDs have raised monthly rental prices.<sup>4</sup> Further, recognizing this competitive threat, MVPDs have been slow to make content available to consumers on competing devices. For example, Comcast does not make its MVPD service available on third party streaming boxes like Roku and until recently also blocked authentication of TV Everywhere apps like HBO GO.<sup>5</sup> The result is video silos that artificially separate content and require consumers to purchase numerous devices to access MVPD and online content.

---

<sup>2</sup> Daniel Frankel, *Roku reaches 10 million in U.S. sales ... but who is No. 1 in OTT?*, FierceCable, Sep. 16, 2014, <http://www.fiercecable.com/story/roku-reaches-10-million-us-sales-who-no-1-ott/2014-09-16>.

<sup>3</sup> Jim O'Neill, *OTT set-top box sales accelerate; Roku was best seller in 2014*, Ooyala, Aug. 20, 2015, <http://www.ooyala.com/videomind/blog/ott-set-top-box-sales-accelerate-roku-was-best-seller>.

<sup>4</sup> See, for example, Philip Dampier, *Time Warner Cable Raising Prices for Set Top Boxes to \$10/Month in Wisconsin*, StoptheCap.com, Oct. 31, 2012, <http://stopthecap.com/2012/10/31/time-warner-cable-raising-prices-for-set-top-boxes-to-10month-in-wisconsin/>; Jessica DiNapoli, *Time Warner Cable Raises Cable, Internet Rates*, Times Herald-Record, Feb. 27, 2014, <http://www.recordonline.com/apps/pbcs.dll/article?AID=/20140227/BIZ/402270319>; Todd Spangler, *Verizon Raising FiOS TV DVR, Set-Top Rates*, Multichannel News, Mar. 23, 2012, <http://www.multichannel.com/content/verizon-raising-fios-tv-dvr-set-top-rates>.

<sup>5</sup> Jon Brodtkin, *Comcast to stop blocking HBO Go and Showtime on Roku streaming devices*, Ars Technica, Dec. 16, 2014, <http://arstechnica.com/business/2014/12/comcast-to-stop-blocking-hbo-go-and-showtime-on-roku-streaming-devices/>.

Consumers will benefit from access to an increasing number of video services available through a competitive set-top box market. Competition in offering the best user interface (“UI”) and access to multiple services will increase the value of what set-top boxes offer to consumers. To ensure maximum consumer adoption, competition will likely result in set-top box availability at reasonable prices. Rather than choosing between devices offering limited access to content or purchasing multiple devices to piece together video services, set-top boxes that integrate content from multiple sources will allow consumers to view more content. Increased competition in set-top boxes will also increase the importance of content available on distribution services. Content availability will become a key factor in differentiation and will lead to competition among distribution services for the ability to distribute desired programming.

Content creators will benefit from the increased ability to deliver independent and diverse content to the television screen enabled by a robust set-top box market. While writers who create content for broadcast and cable networks have benefited from the MVPD system, the WGAW has documented how media consolidation has limited the independent and diverse stories broadcast on these traditional platforms. Online video services have begun to provide some competition but most lack critical content such as live events, including sports. An integrated video access device would place online video and independent content, on a more equal playing field with multichannel services.

### **III. A Competitive Set-Top Box Market Must Allow for Innovation and Integration of MVPD and OVD Video Offerings**

In order to fully realize the goal of Section 629, the Commission must ensure that third party devices can replicate all of the features of an MVPD provided box without degradation of

quality while also allowing innovative new features. It is imperative that third party devices are not locked down to particular MVPDs or classes of MVPDs. Independent devices must be nationally portable if they are to be valuable to consumers who generally expect other electronic devices to work in any part of the country. Other features that must be allowed on third party devices include pay-per-view programming, video-on-demand, and cloud DVR storage.

Consumers should also have a choice in what UI they use to access their video services. In the cell phone and tablet markets, the availability of many different models allows users to choose from a variety of interfaces and even allows them to customize this important aspect of their device. A robust set-top market requires that the Commission permit, though not require, third party devices to provide their own UI. Third party devices should also be allowed to integrate both MVPD video services and online video, allowing consumers to access all of the video services that they pay for on one device. Consumers might also enjoy a more efficient user interface (UI) or universal search function across all the services they subscribe to. Robust competition can spur the kind of innovation seen in other consumer electronic devices and create a better video watching experience for users.

For these reasons, the Commission should use the “Competitive Navigation” proposal, based on a “Virtual Headend,” as the basis for a new standard that fulfills the objective of true competition in Section 629. This combined solution provides the flexibility for third party device makers to provide innovative UIs, universal search and other features while accommodating different MVPD technology platforms and protection of video content.

#### **IV. Conclusion**

The WGAW respectfully urges the Commission to adopt the “Competitive Navigation” and “Virtual Headend” proposals, which together would allow third party set-top boxes to replicate all of the features in current MVPD-provided devices while also allowing the kind of innovation and differentiation seen in other consumer electronics. In this way consumers and content creators will finally benefit from the robust competition envisioned by Section 629.