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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

September 30, 2016

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Dear Chairman Wheeler:

Yesterday, the Federal Communications Commission (“Commission” or FCC) delayed voting on a Report and Order in the proceeding dealing with pay-TV set-top boxes (MB Docket No. 16-42, CS Docket No. 97-80). This delay affords the Commission an opportunity to inform the public about the new proposal the Commission is considering and to seek additional comments to improve the work being done by you and your colleagues.

Recently, Congressman Tony Cardenas (D-CA) called on the FCC to release the text of your new proposal so that the public, consumer groups, and industry stakeholders have “enough time ... to sufficiently review the proposal before a vote by the Commission.” I wholeheartedly agree, and the most transparent, inclusive, and accountable way to do so would be for the FCC to issue a Further Notice of Proposed Rulemaking (FNPRM) in this proceeding, including the text of the proposal currently under consideration.

Your new proposal is intended to benefit consumers, yet those same consumers are not currently able to read this far-reaching new plan. The new rule being considered—which appears to differ significantly from the one publicly proposed by the Commission in its Notice of Proposed Rulemaking (FCC 16-18)—raises questions relating to customer privacy, marketplace innovation, copyright, legal authority, content security, and other topics. Yet consumers and affected stakeholders have thus far had no ability to examine the new proposal nor to provide fully-informed feedback to the agency.

For a rulemaking that is expected to take years before it is fully implemented, there is no need or urgency for the Commission to rush behind closed doors to adopt a final order. Sunlight in government proceedings is critical for ensuring outcomes that provide the most benefit possible for the American people.

The FCC's set-top box rulemaking can only be improved from additional public review and comment, and I urge the Commission to issue an FNPRM in this proceeding.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Thune". The signature is stylized with a large initial "J" and a long horizontal stroke at the end.

JOHN THUNE
Chairman

Cc: The Honorable Mignon Clyburn
The Honorable Michael O'Rielly
The Honorable Ajit Pai
The Honorable Jessica Rosenworcel