



September 13, 2016

Dear [Senate Commerce Committee Member],

We are writing to you on behalf of the 16,500 members of the Directors Guild of America (DGA) and 125,000 members of the International Alliance of Theatrical Stage Employees (IATSE) to express our opposition to FCC Chairman Wheeler's current set-top box proposal. We have made clear our grave concerns since last February, when the Chairman issued his original proposal; that concern has only grown stronger in the months since. Chairman Wheeler cannot lay claim to creative community support.

We have consistently said that we appreciate the FCC's objective of opening the set-top box/app marketplace to competition; however that is not all the current FCC proposal sets out to achieve—underlying its stated objective is the goal of providing third parties free and easy access to copyrighted films and television programming. We cannot support a proposal that in reality threatens to undermine the economic foundation of our industry and with it our members' ability to make a living from the copyrighted TV and films they work on. For decades, the growth and success of film and television — for consumers, creators and skilled workers alike — has been a direct product of a structure created and nurtured to protect copyright and fairly compensate the men and women of our industry who create the very best entertainment programs in the world.

The reason this structure is so important is because, for most of our members, employment in this business is intermittent and the job search continual. As a result of their integral creative contribution and this freelance nature of the business, our members have a vested interest in a distribution structure that is grounded in both protecting content and maximizing the value of that content. Our members share in the revenue that is generated from every form of distribution that the MVPDs enter into (via licensing agreements) with the programmers to enable content to be distributed through a set-top box or an app. That is why getting full value for the work they create is no less critical to our members than it is to the copyright holders; our members share directly in the downstream revenue their work generates—for DGA, in the form of DGA members' residuals (\$360 million in 2015) and payments to DGA pension plans, and for IATSE, in their health and pension plans.

We laid all this out to the FCC in our April filing and May reply comments. However, the new proposal introduced last week by Chairman Wheeler, still leaves little for our members. The proposal continues to enable the largest screen in the home, the TV set, to double as a portal for unlicensed content. The proposal continues to enable third parties to provide commercial video services that include copyrighted programs for which they have not paid. In other words, the proposal continues to shrink and shut off revenue streams from which DGA members derive substantial income and IATSE members' strong health and pension plans. Finally, in the latest proposal it appears the FCC is establishing the equivalent of a copyright compulsory license, which means the FCC itself can establish payment-free license terms for our members' creative work, stripping them even further of the economic benefits to which they are entitled.

We are even further dismayed to learn that this proposal—which can negatively impact hundreds of millions of dollars of income and pension and health plan payments for our members—will never actually see the “light of day”. We will never be privy to what exactly is determined and how it is to be implemented. The lack of transparency when so much is at stake is truly shocking.

We thank you for your consideration and welcome any questions you have.

Sincerely,



Jay D. Roth, National Executive Director  
DIRECTORS GUILD OF AMERICA



Matthew D. Loeb, International President  
INTERNATIONAL ALLIANCE OF THEATRICAL  
STAGE EMPLOYEES