

United States Senate

WASHINGTON, DC 20510-4305

September 20, 2016

The Honorable Thomas Wheeler
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

I am writing to express my concerns regarding the Federal Communications Commission's (FCC) most-recent proposal to implement Section 629 of the Communications Act of 1934 (47 U.S.C. § 629). Specifically, I request that you delay the adoption of final rules governing video navigation devices until the Senate Judiciary Committee has the opportunity to review the implications of your proposal on privacy protections and copyright law.

According to the fact sheet released by the FCC summarizing the proposal, the final rules would prompt the creation of a licensing body to develop a standard license between multichannel video programming distributors (MVPDs), programmers, and device manufacturers. As I understand it, the FCC would have the authority to dictate the ultimate terms and conditions of such license. The FCC's proposal would seem to impose a compulsory copyright on programmers. Yet, as concluded by the Copyright Office, only Congress has the authority to impose such an obligation.

Furthermore, the fact sheet for the final rules does not clearly protect consumer privacy. The new proposal could allow the device manufacturers access to a broad range of personally identifiable information about subscribers, including complete information about the services they subscribe to and their viewing habits. Alarming, however, those device manufacturers could not be subject to the same privacy protections of the Communications Act that MVPDs currently are bound by. No entity should have access to such information from MVPDs without agreeing to abide by the same regulations under which MVPDs operate. The Judiciary Committee should review the proposal to ensure consumer privacy protections are not being overlooked in the name of device manufacturers profiting from data mining.

The Judiciary Committee, on which I serve, has jurisdiction over privacy rights and copyright law, and therefore, should be afforded the opportunity to review the text of the FCC's proposal before the agency votes to adopt it. I look forward to the Judiciary Committee's review of the text of your proposal and to your engagement with the Committee to address any concerns that the FCC is undermining copyright law.

Sincerely,



JOHN CORNYN
United States Senator

cc: Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Michael O'Reilly
Commissioner Ajit Pai