

April 12, 2016

Darryl L. DePriest, Chief Counsel
Office of Advocacy
U.S. Small Business Administration
409 3rd St., SW
Washington, District of Columbia 20416

Chief Counsel DePriest:

ACT | The App Association, representing more than 5,000 small- and medium-sized app development companies and technology firms around the globe, writes to the Small Business Administration's (SBA) Office of Advocacy to request its timely involvement in the Federal Communications Commission's ("Commission") ongoing consideration of rule changes regarding consumer access to multichannel video programming.¹ As the world has quickly embraced mobile technology and apps, ACT | The App Association's members have been creating innovative solutions that drive the global digital economy across modalities and segments, such as by improving workplace productivity, accelerating academic achievement, helping people lead healthier lifestyles, and augmenting the consumer interaction and experience with subscribed video programming.

¹ *In the Matter of Expanding Consumers' Video Navigation Choices*, MB Docket No. 16-42, *Commercial Availability of Navigation Devices*, CS Docket No. 97-80, Notice of Proposed Rulemaking and Memorandum Opinion and Order, FCC 16-18 (rel. Feb. 18, 2016) ("Set-top Box Proposal").

ACT | The App Association takes no specific position on the Commission's proposed policy changes in this letter to the SBA Office of Advocacy, other than to note our overarching desire to enable consumers to easily access multichannel video programming and to encourage innovation in how programming is accessed. In recent years, the increasingly pronounced role of apps – many created by small- and medium-sized businesses – has contributed to the progression of the consumer experience with multichannel video programming from one that is constrained to a traditional set-top box to an app-based and device-agnostic interactive experience. Evidenced by the offerings of today's multichannel video programming distributors ("MVPDs"),² this evolution is clearly well underway. ACT | The App Association's thousands of members are therefore directly impacted by the Commission's set-top box proposal.

The Regulatory Flexibility Act of 1980³ requires agencies to analyze the economic impacts of new regulations on small businesses, and if those impacts are significant, to examine alternatives that would minimize burdens. In its set-top box proposal, the Commission briefly undertakes such an analysis, in which it addresses the following small business categories: Wired Telecommunications Carriers; Cable Television Distribution Services; Cable Companies and Systems; Cable System Operators (Telecom Act Standard); and Direct Broadcast Satellite (DBS) Service.⁴ The analysis does not contemplate, however, the small business app maker who will interact directly with an MVPD's network, a key stakeholder community in the future of consumer access the multichannel video programming. Further, we share the concerns raised regarding potential increased consumer costs and impacts on minority and independent programmers.⁵ We believe that such an oversight merits action by the SBA Office of Advocacy. Such oversight would work to ensure that the needed

² See, e.g., Letter from Jordan B. Goldstein, Vice President, Regulatory Affairs, Comcast Corporation to Marlene H. Dortch, Secretary, FCC, MB Docket No. 16-42, CS Docket No. 97-80 (filed Mar. 31, 2016).

³ Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified as amended at 5 U.S.C. §§ 601-12).

⁴ See Set-top Box Proposal at Appendix C.

⁵ Letter from Rep. Yvette D. Clarke, Member of Congress, et al., to Hon. Tom Wheeler, Chairman, Federal Communications Commission (Dec. 1, 2015).

analysis is undertaken by the Commission in this matter as it proceeds through the regulatory process.

In conclusion, ACT | The App Association believes that the SBA Office of Advocacy should assert itself in the open relevant Commission dockets in this matter to request that a more robust cost analysis be undertaken before the proposal proceeds further in the Commission's regulatory process. The SBA Office of Advocacy is encouraged to contact ACT | The App Association with any questions.

Sincerely,

A handwritten signature in black ink that reads "Morgan Reed". The signature is written in a cursive style with a large, prominent 'M' and 'R'.

Morgan Reed

Executive Director

ACT | The App Association