

Why GAO Did This Study

Millions of households subscribe to cable, satellite, and telephone companies—known as MVPDs—for television, which is generally delivered via a set-top box attached to a television. Congress directed FCC to adopt regulations to assure a commercial market for devices to access MVPDs, and in February 2016, FCC proposed a rule intended to do so. Many industry stakeholders raised concerns about the proposal's potential effects, and FCC did not issue the proposed rule. This report examines: (1) the role of set-top boxes in accessing video programming content and (2) views of selected stakeholders and experts on the need for FCC regulation regarding set-top boxes and FCC's analysis of such need.

GAO analyzed data from a media research group regarding the video market and interviewed 35 industry stakeholders including 12 MVPDs, 5 video content producers, 3 device manufacturers, 12 industry associations, and others; GAO selected stakeholders based on comments filed with FCC on its 2016 proposed rule. GAO also interviewed 11 industry analysts and experts selected based on industry coverage and publications.

What GAO Recommends

GAO recommends that FCC conduct a comprehensive analysis of how recent industry changes related to video services affect consumer choice for devices to access video services.

FCC agreed with GAO's recommendation and provided technical comments that GAO incorporated as appropriate.

View [GAO-17-785](#). For more information, contact Mark Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

VIDEO PROGRAMMING

FCC Should Conduct Additional Analysis to Evaluate Need for Set-Top Box Regulation

What GAO Found

Set-top boxes play a significant but diminishing role in delivering video content in an evolving video market. Subscribers to multichannel video programming distributors (MVPD)—companies that provide pay television services via subscriptions such as cable and satellite companies—generally need a set-top box to access MVPD television services, and most subscribers lease a set-top box from their MVPD. However, consumers can now access video through a wide range of Internet-based services without a set-top box, using a variety of Internet-capable devices, such as tablets. Internet-based services include those providing on-demand video such as Netflix and some, such as Sling TV, providing live content similar to that from MVPDs. Some Internet-capable devices, such as Roku, allow people to watch Internet-based video on televisions. In recent years, subscriptions to MVPDs have fallen as more Internet-based services have become available. Partly in response to this competition, many MVPDs have begun offering content over the Internet to subscribers, accessible on many Internet-capable devices, including streaming devices that display it on televisions. While in most cases, MVPD subscribers still need a set-top box, a few MVPDs GAO interviewed now allow subscribers to access content they subscribe to solely over the Internet, without a set-top box.

The Federal Communications Commission (FCC) has conducted limited analysis of the need for regulations to assure a commercial market for devices, such as set-top boxes, to access MVPD services. Most stakeholders and experts GAO interviewed said that further regulations for this purpose were not needed, given recent changes in the video content market. FCC is directed by law to set regulations to assure a commercial market for devices to access MVPD services. However, the law also specifies that any such regulations may no longer apply if FCC determines that the markets for both MVPD services and devices to access MVPDs are fully competitive. Moreover, while it does not extend to independent agencies, Office of Management and Budget guidance says agencies could use analyses to evaluate the need for proposed actions. However, FCC proposed a new rule in 2016 to promote a commercial set-top box market without undertaking a comprehensive analysis of the competitiveness of the market to support the proposed rule. FCC did not enact a final rule. Stakeholders had differing views on the potential effects of the proposed rule, but some raised concerns that the rule could have had negative effects on MVPDs and content providers. As described above, widespread changes in the video market in recent years have expanded consumers' choices for video services as well as devices to access those services. Nineteen of the 35 industry stakeholders GAO interviewed said rules are not needed at this time, while 8 said rules are still needed. (The rest gave uncertain answers or did not comment on this issue.) Without a comprehensive analysis, FCC lacks information on the extent of consumer choice and, furthermore, the extent to which increased options for video services affect the relative importance of consumer choice for devices to access MVPDs. Such an analysis could help FCC determine if additional regulations are needed and, as the market likely continues its rapid evolution, could serve as a benchmark in FCC's further consideration of whether market conditions have been met such that regulations may no longer apply.