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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of	)	
	)	
Technical Requirements to Enable Blocking of Video Programming based on Program Ratings	)	ET Docket No. 97-206
	)	
Implementation of Sections 551(c), (d), and (e) of the Telecommunications Act of 1996	)	

REPLY COMMENTS OF THE CONSUMER ELECTRONICS MANUFACTURERS ASSOCIATION

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EXECUTIVE SUMMARY

The record of this proceeding demonstrates a broad consensus that the Commission's adoption of a single, simple-to-use rating system will be critical to parental acceptance and use of program blocking technology. The technical demands associated with multiple rating systems would almost result in parental frustration with, and wholesale rejection of, blocking technology.

The record of this proceeding also demonstrates that the Commission should not mandate a specific interface for use with program blocking applications. As a large number of commenters point out, mandates on the design of television receivers are completely unnecessary and will only stifle innovation by receiver manufacturers.

A large number of commenters also support CEMA's position that the proposed implementation deadlines for incorporation of blocking technology into analog and digital receivers are unrealistically short, and must be extended to acknowledge the inescapable realities of manufacturer design production cycles. Indeed, receiver manufacturers have already approved product designs and are beginning the manufacturing process for receivers that will be in the market in July 1998 – the Commission's proposed implementation date.

Finally, the record strongly supports the proposition that the program blocking rules should not be applied to content received over the Internet or to devices that cannot both receive and display television signals.

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The Consumer Electronics Manufacturers Association ("CEMA") hereby replies to the comments that were filed in response to the Commission's Notice of Proposed Rulemaking ("the *Notice*") in the above-captioned proceeding on November 24, 1997.[1]

In its initial comments, CEMA urged the Commission to:

(1) revise its proposed implementation timelines to take into account the design and production cycles of analog and digital receivers;

(2) adopt a single ratings system for both the analog and video environments, and to refrain from requiring receivers to include alternative blocking technologies or decode multiple or future systems;

[1] *Technical Requirements to Enable Blocking of Video Programming based on Program Ratings, Implementation of Sections 551(c), (d), and (e) of the Telecommunications Act of 1996*, ET No, 97-206 (September 26, 1997).

(3) clarify its proposals as they relate to other television receiving apparatus, televisions used outside the home, and content displayed over the Internet;

(4) rely on the competitive marketplace to develop the most effective user interface designs; and

(5) require all video programming providers to pass rating information through without deletion or modification.

A review of the comments filed by the other parties confirms the validity of these recommendations. The vast majority of commenters recognize that the Commission can most effectively promote the expeditious introduction of user-friendly blocking technology by respecting the television industry's product-development timetable, and refraining from the imposition of additional or complicated requirements. Although a handful of parties urge the Commission to adopt complex or multiple rating systems, most commenters recognize that the Commission's adoption of a single, simple-to-use rating system is the most effective way to promote broad parental acceptance and use of blocking technology.

I. THE RECORD SUPPORTS THE COMMISSON'S ADOPTION OF A SINGLE RATING SYSTEM FOR BOTH ANALOG AND DIGITAL TRANSMISSIONS.

Despite the diversity of interests represented by the commenters in this proceeding, the comments themselves demonstrate a broad and welcome consensus that the Commission's adoption of a single, simple-to-use rating

system will be critical to parental acceptance and use of program blocking technology.[2]

Despite widespread recognition of the fact that simplicity will be the necessary element for the V-chip's success, a small minority of commenters proposes that receivers be required to decode multiple blocking systems.[3] Some of the suggested alternative systems are extraordinary in their complexity. For example, one party proposes a rating system be adopted that would allow blocking on a "scene-by-scene" basis while providing for "in-scene editing."[4] Another suggests that EIA-744 be revised to allow the transmission of up to seven additional rating systems.[5]

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[2] *See, e.g.,* Comments of the Center for Media Education at 5 [hereinafter "CME Comments"]; Comments of the Information Technologies Industry Council at 5 [hereinafter "ITI Comments"]; Comments of Matsushita Electric Corporation of America at 6 [hereinafter "Matsushita Comments]; Joint Comments of the National Association of Broadcasters et. al at 8 [hereinafter "NAB Comments"]; Comments of Philips Electronics North America at 5 [hereinafter Philips Comments]; Comments of Soundview Technologies at 2 [hereinafter "Soundview Comments"]; Comments of Thomson Consumer Electronics, Inc. at 15-20 [hereinafter "Thomson Comments"]; Comments of Toshiba America Consumer Products at 2 [hereinafter "Toshiba Comments"]; Comments of Zenith Electronics Corporation at 4 [hereinafter "Zenith Comments"].

[3] *See, e.g.,* Comments of the American Academy of Child & Adolescent Psychiatry at 2; Comments of John Livingstone at 2, Comments of OKTV at 3 [hereinafter OKTV Comments]; Comments of Wilson Sonsini Goodrich & Rosati at 1 [hereinafter "Wilson Sonsini Comments"]. It should be noted that, while OKTV claims that the "medical and research community" supports mandatory multiple ratings systems, the joint comments filed by the American Medical Association, the American Academy of Pediatrics, and the American Psychological Association advocate that only a single rating system be mandated. *See* CME Comments at 5.

[4] *See* Comments of Wilson Sonsini at 1.

[5] OKTV Comments at ii. Another commenter advocates the adoption of a so-called "positive option" system that, rather than blocking programming, would actively seek out programming which it terms child-friendly. *See* Comments of Tim Collings, et. al. This proposal is clearly beyond the scope of the present proceeding, because the system being advocated is not a program blocking system as called for in Section 551 of the Telecommunications Act of 1996.

None of the multiple rating system proponents confront the difficulties that would be faced by parents in programming such systems, a situation one commenter analogizes to "a technical gauntlet."[6] This needless imposition of technical demands would result in parental frustration with, and wholesale rejection of, blocking technology. The blinking "12:00" on many VCR's is apt evidence of consumers' minimal patience with overly complex technical features. In addition, a requirement that additional systems be added to EIA-608 would require significant redesign by manufacturers, increasing engineering and design costs and delaying the market introduction of V-chip equipped sets.

Numerous parties detail the complications that foreseeably would arise from a requirement that receivers decode a multiplicity of ratings systems, a scenario that one party describes as a "nightmare for both parents and other viewers."[7] These parties note that the existence of multiple ratings systems will inevitably add complexity to a television receiver's user interface, create confusion for parents, and discourage use of the program blocking feature. One commenter notes that:

> Our research indicates that as more icons and additional ratings systems are added, programming procedures become more complex and time consuming; hence consumers are less prone to program the device and ultimately use the technology for blocking objectionable programming.[8]

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[6] *See* Thomson Comments at 17.

[7] Philips Comments at 5. *See also* Matsushita Comments at 9; NAB Comments at 8; Philips Comments at 6; Thomson Comments at 16; Zenith Comments at 4.

[8] *See* Soundview Comments at 2.

As another party succinctly states, "the more ratings systems a broadcaster must accommodate, the more complicated the blocking technology must be."[9]

In addition, television receiver manufacturers remind the Commission that in the analog environment, new program ratings cannot be downloaded and blocking circuitry cannot be reprogrammed without being physically removed and reinstalled in a receiver.[10] Any future revisions to an adopted rating system, or a requirement that receivers be able to decode rating systems established in the future, would cause massive V-chip obsolesce in those receivers already in place in American homes.[11] The Commission must therefore ensure that whatever rating system it adopts will remain constant into the foreseeable future.

Therefore, to ensure that the goal of this proceeding is accomplished—namely, the empowerment, rather than the frustration, of parents—CEMA urges the Commission to reject requests for the mandatory adoption of multiple ratings systems. CEMA urges the Commission instead to adopt a single rating system for the analog and digital environments while allowing the marketplace to determine extensions as appropriate.

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[9] *See* ITI Comments at 6.

[10] This principle holds true for DTV receivers. A requirement that DTV receivers accommodate "'dynamic' rating systems would require a significant increase in the television's computing power, increasing costs and thereby hampering the introduction of DTV. Philips Comments at n 2.

[11] *See* Matsushita Comments at 10; Philips Comments at 8; Thomson Comments at 32; Toshiba Comments at 2.

Finally, numerous parties join CEMA in urging the Commission to forbear from requiring receivers to support alternative or additional program blocking technologies.[12] Notably, a number of manufacturers emphasize that they currently offering sets with alternative technologies such as date and channel blocking in response to consumer demand.[13]

II. THE RECORD SUPPORTS THE PROPOSITION THAT THE COMMISSION SHOULD RELY ON THE MARKETPLACE TO DEVELOP THE MOST EFFECTIVE USER INTERFACE DESIGNS.

In its initial comments, CEMA urged the Commission not to mandate a specific interface for use with program blocking applications. As a large number of commenters point out, mandates on the design of television receivers are completely unnecessary and will only stifle innovation by receiver manufacturers.[14] The Commission surely recognizes that manufacturers have an overriding economic self-interest in making their interfaces optimally simple and user friendly. Indeed, the ubiquitous status of the television set in the American home is testimony to the receiver industry's extraordinary success in designing an easy-to-use device. These same competitive market dynamics will ensure the development of simple and intuitive user interfaces for program blocking technology.

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[12] *See* ITI Comments at 6; Matsushita Comments at 8; Philips Comments at 8; Toshiba Comments at 3; Thomson Comments at 20; Zenith Comments at 2.

[13] *See* Matsushita Comments at 9, Toshiba Comments at 2; Zenith Comments at 2.

The design of the program-blocking interface poses a number of challenges for receiver manufacturers. The interface must simultaneously be flexible enough to allow parents to select among program content options, simple enough for parents to use easily, and secure enough to prevent children from overriding the blocking features. For these seemingly conflicting needs to be met, receiver manufacturers must be given the maximum encouragement for creativity, innovation, and product differentiation in system design.

Allowing the market and consumers to dictate receiver design will provide all the necessary incentive for manufacturers to accomplish the Commission's goal of a user-friendly technology that will adequately withstand attempts by children to disable it.[15] For manufacturers to do any less would risk incurring the wrath of any parents who feel they have purchased a device that does not adequately serve their needs. As one commenter aptly noted, "it is parents who will be purchasing new televisions, not their children."[16]

The record also highlights the fact that, absent restrictions imposed by government mandate, user interfaces provide manufacturers with an opportunity to differentiate their products by enhancing performance and providing new features.[17] One commenter raised the example of closed captioning, where the absence of a government mandated user interface allowed

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[14] *See, e.g.,* ITI Comments at 9; Matsushita Comments at 12; Philips Comments at 11; Thomson Comments at 22; Toshiba Comments at 3.

[15] *Notice* at 14.

[16] Philips Comments at 11.

this manufacturer to develop a new feature permitting the display of closed captions while the television receiver is set to a mute mode.[18] This manufacturer notes that, had mandatory user interface requirements been in place, such a feature probably could not have been incorporated.[19]

Other parties question the Commission's legal authority to impose user interface standards, noting that Section 551 of the Telecommunications Act of 1996 in no way contemplates user interface regulation.[20] The absence of such explicit authorization should be taken to indicate that Congress wisely preferred a market-based approach to user interface specifications.

Despite the overwhelming arguments in favor of marketplace-driven interface development, a very small minority of commenters requests that the FCC impose mandatory requirements on the design of television receivers.[21]

While some of these proposed requirements may initially appear innocuous, closer examination reveals that issues relating to receiver design are most effectively left to the marketplace. For example, one party urges that the Commission mandate the V-chip to operate on all sets in a "consistent manner."[22] As an illustration of the type of regulations it seeks, this party refers to the performance of video cassette recorders where "every VCR on the market

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[17] *See id.* at 11; Thomson Comments at 23.

[18] *See* Thomson Comments at 23.

[19] *Id.*

[20] *See* Philips Comments at 11; Thomson Comments at 16.

[21] *See, e.g.*, CME Comments at 2; OKTV Comments at 14; NAB Comments at 5.

permits users to set the machine in advance to record certain programs at certain times over certain channels."[23] Of course, such reasoning misses the entire point: VCRs function as they do not because they are required to do so by the government, but because they are forced to do so by consumer demand. Similarly, the marketplace will ensure that manufacturers develop and provide whatever program blocking options parents desire, possibly including features that display rating information on request, automatically block more restrictive ratings when lesser ratings are selected, etc.[24]

Rather than imposing requirements on receiver design and operation, the Commission should ensure that manufacturers are not artificially constrained from providing parents with features they may find valuable. For example, the Commission is urged by one party to prohibit television receivers from using blocking circuitry to block unrated programming such as sports and news.[25] Such a regulation would be directly contrary to the common sense

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[22] *See* NAB Comments at 4.

[23] *Id.*

[24] Given NAB's concern about uniformity in ratings *display*, it is curious that they do not share the same concern with respect to uniformity in ratings *transmission*. This contradiction is evidenced by NAB's proposal that every local television station be allowed to modify ratings assigned to every program in order to accommodate "local tastes." *See* NAB Comments at 10. If program ratings are to be of any practical value to parents, it is essential that they carry a universally understood meaning. That is the rationale behind the Commission's proposed rule, supported by CEMA, prohibiting video providers from deleting or in any way modifying information carried on line 21 of the VBI. *See Notice* at ¶ 16. While it is plausible that parents in different localities may have different tastes and values, they may exercise these preferences by programming the blocking devices in their individual receivers as they see fit.

[25] NAB Comments at 5. Such a requirement would also prevent receivers from blocking any programming from Black Entertainment Television ("BET"), which has opted not to rate its programming. While the NAB is correct in asserting that EIA 608 and the recommended practices

objective of this proceeding, namely, giving parents the choice to block programming they feel may be inappropriate for their children. [26]

In fact, it is entirely foreseeable that parents may wish to restrict their children's viewing of news and other unrated programming. The very nature of its mission often requires television news to cover issues which may include violence or other material that parents may find objectionable. If parents reasonably wish to restrict their children's access to such material, the government must not deny them that right. Instead, parents should be allowed to select receivers in the marketplace that will give them whatever mix of capabilities and options they desire.

In sum, we urge the Commission to reject proposals from those few parties that seek to impose design and operational mandates on television receivers. The record of this proceeding supports the fact that competition-driven interface development, if allowed to occur, will encourage innovation, variety and, ultimately, the most user-friendly systems.

III. THE RECORD SUPPORTS THE COMMISSION'S EXTENSION OF ITS PROPOSED IMPLEMENTATION TIMELINES TO TAKE INTO ACCOUNT THE DESIGN AND PRODUCTION CYCLES OF ANALOG AND DIGITAL RECEIVERS.

Of those parties commenting on the Commission's proposed implementation deadlines for blocking technology, the overwhelming majority

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do not provided for blocking of unrated programming, the point is that manufacturers should be free to include this capability should the market so demand.

agrees with CEMA's position that the proposed deadlines are unrealistically short, and must be extended in consideration of the inescapable realities of manufacturer design production cycles.[27] Indeed, manufacturers have already approved product designs and are beginning the manufacturing process for receivers that will be in the market in July 1998.[28]

In addition, these commenters emphasize that the design process for blocking technology cannot begin until the Commission has adopted final rules for both a rating system and the transmission requirements for such a rating system. Subsequent to the adoption of these rules, manufacturers will reasonably require between 18 and 24 months to introduce reliable, high-quality program blocking features to the American public.[29]

Receiver manufacturers, while reaffirming their commitment to bringing V-Chip equipped receivers to market as rapidly as possible, emphasize that an adequate design and development time is essential to ensuring that the program blocking technology introduced to the market is fully functional, of

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[26] *See also,* CME Comments at 4.

[27] *See, e.g.,* ITI Comments at 9; Matsushita Comments at 5; Philips Comments at 12; Sanyo Comments at 1, Thomson Comments at 6; Toshiba Comments at 2; Zenith Comments at 2.

[28] *See, e.g.*, Matsushita Comments at 6, Zenith Comments at 3.

[29] *See* ITI Comments at 9 (24 months); Matsushita Comments at 5 (18 months); Sanyo Comments at 1 (18 months); Philips Comments at 3 (18 months); Thomson Comments at 6 (18 months); Toshiba Comments at 2 (18 months); Zenith Comments at 2 (18 months). Matsushita further proposes that the Commission's implementation rule should be related to the percentage of models *produced* after a certain date, rather than the percentage of models *sold* by manufacturers, wholesalers, and retailers. Matsushita Comments at 8. Philips urges that manufacturers be required to have all *new models* equipped with V-Chips by July 1, 1999, with all remaining models required to comply by July 1, 2000. Philips Comments at 3.

optimum quality, and easy to use. One manufacturer notes the extraordinarily high public expectations for V-chip performance, and argues that the success of blocking technology will depend upon meeting these expectations in the first-generation products:

> "[a] delay . . . in [V-chip] retail availability will be far easier for consumers to understand than would be their swifter purchase of a receiver whose V-chip (and potentially other related functions) do not work as they are intended or are impossible difficult or cumbersome to operate."[30]

In addition, commenters correctly point out that a revised timetable would be entirely consistent with the intent of Congress, which had envisioned a flexible approach to V-chip implementation.[31] Indeed, the two-year time period set forth in section 551 of the Act was intended to be a minimum, not a ceiling. There is no indication that Congress intended to compress the usual 18-month receiver design time into a space of less than six months, as the Commission's proposal would do. One manufacturer notes that under the Cable Decoder Circuitry Act of 1990, the rapid adoption of final implementing rules allowed manufacturers 27 months to bring their sets into compliance with the law.[32] Even within this reasonable timeframe, the rollout of closed captioning-equipped sets was not entirely free of difficulty.[33]

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[30] *See* Philips Comments at 15.

[31] *See id.* at 17; Thomson Comments at 12.

[32] *See* Thomson comments at 15.

[33] *Id.*

Similarly, the record demonstrates significant opposition to the Commission's proposed DTV implementation timeline of 180 days after the adoption of the applicable rules.[34] Manufacturers point out that there is no reason to believe that the development and design time for digital receivers will be any shorter than the 18 month time period required for analog receivers, especially considering the extensive quality assurance testing that must be performed prior to introducing DTV. Given the manifest uncertainties attendant to introducing a new technology, a requirement that the production cycle for DTV be artificially compressed could have ruinous consequences. As one manufacturer warns, "if manufacturers are so required to contort their production cycle that it results in technical problems or substandard operation of any type, it may irrevocably "spook" the market and cool consumer demand . . . ."[35]

In addition, manufacturers have already finalized their first-generation digital receivers, which will be brought to market in coordination with the advent of digital broadcasting in November 1998.[36] Because the transmission standard and the rating system are not yet final, it is not possible for these receivers to include the new blocking technology.

CEMA therefore reaffirms its request, which the record supports, that the Commission extend the proposed implementation timetable for both

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[34] *See* Matsushita Comments at 13; Philips Comments at 20; Thomson Comments at 28; Toshiba Comments at 3; Zenith Comments at 4.

[35] *See* Thomson Comments at 31.

[36] *Id.* at 30.

analog and digital receivers to provide for the incorporation of blocking technology into at least half of a manufacturer's product models not less than 18 months following final approval by the Commission of the applicable standards and rating systems (presuming finalization of the ratings systems and transmission standards in the January time frame) and implementation in remaining models no less than twelve months thereafter.

IV. THE MAJORITY OF COMMENTERS URGE THAT THE PROGRAM BLOCKING REQUIREMENTS DO NOT APPLY TO INTERNET CONTENT, OR TO DEVICES THAT CANNOT BOTH RECEIVE AND DISPLAY TELEVISION SIGNALS.

In its initial comments, CEMA urged the Commission to state clearly that the program blocking rules do not apply to content received over the Internet. This proposal is supported by numerous parties in the record.[37] As the Media Access Project notes, Section 551 contains no reference to the Internet, and instead is directed at traditional video programming content rather than the Internet.[38]

Similarly, the Information Technology Industry Council notes that Section 303(x) of the Act authorizes the Commission to develop program blocking rules that apply to apparatus receiving television signals via a television tuner, "and, by clear inference only such content as transmitted by television signals."[39] CEMA again urges the Commission to make clear that the provisions

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[37] *See, e.g.*, Comments of the Media Access Project at 4 [hereinafter MAP Comments].

[38] *Id.* at 17. *See also* Comments of the Electronic Frontier Foundation at 2.

[39] *See* ITI Comments at 12.

of the Act do not authorize the application of ratings requirements and program blocking technology to Internet content.

The record also supports CEMA's request that the Commission unambiguously state that the program blocking requirements do not apply to devices that cannot *both receive and display television signals*, such as VCRs, cable decoder boxes, PC monitors, and DBS, MMDS and DTV converter boxes.[40] Most importantly, the Commission should reconsider its proposal that digital television receiver boards be required to include blocking circuitry. Such a requirement is far beyond the scope of the Act, which was clearly limited to television systems that include monitors or viewing screens of 13" or larger.[41]

As one commenter explained, "the Commission would be creating an extraordinary obligation if it were to impose design restrictions on devices, components, or software that might one day be connected directly or by remote means to a television display or system."[42] At most, the Commission should merely require that such devices not delete or modify the ratings information.

V. CONCLUSION

For all the reasons set forth above and in our prior filing on this issue, CEMA urges the Commission to: adopt a single ratings system for both

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[40] *See* BSA Comments at 7; Thomson Comments at 28.

[41] *See* BSA Comments at 7: [digital set-top boxes] either meet the definition of an "apparatus designed to receive television signals" or they do not. There is no justification for a special rule on this technology."

the analog and video environments; refrain from requiring receivers to include alternative blocking technologies or decode multiple or future systems; refrain from dictating user interface design and operation; revise its proposed implementation timelines to take into account the design and production cycles of analog and digital receivers; and unambiguously state that the program

[42] *See* Matsushita Comments at 16.

blocking rules do not apply to content received over the Internet or to devices that cannot receive and display television signals.

Respectfully submitted,

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