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December 7, 2001

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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Response to Written Ex Parte Letters of Consumer Electronics Association and Thomson Multimedia (PP Docket No. 00-67, Compatibility Between Cable Systems and Consumer Electronics Equipment; CS Docket No. 97-80, Commercial Availability of Navigation Devices)**

Dear Ms. Salas:

This letter responds to two recent ex parte letters filed in the above captioned docket, one by the Consumer Electronics Association ("CEA")[1] and one by Thomson Multimedia.[2] Both of these letters contain a number of inaccuracies and misleading statements regarding various cable-digital TV compatibility issues. It is critical that the Commission base its decisions in this important area on accurate information. Accordingly, Motorola provides the following response, in an effort to correct the record with regard to the most significant of these statements. More generally, Motorola wishes to express its agreement with recent statements by Cable Bureau Chief Kenneth Ferree acknowledging that progress is being made on cable-digital TV compatibility issues,[3] and reiterate its commitment to work with the Commission staff and other affected parties in an effort to resolve all outstanding issues of concern to the Commission.

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1 Ex parte Letter from Michael Petricone, Vice President, Technology Policy, CEA, to Magalie Roman Salas, Commission Secretary, PP Docket No. 00-67 (Nov. 6, 2001) ("CEA Letter").

2 Ex Parte Letter from Lawrence R. Sidman, Counsel for Thomson Multimedia, to Magalie Roman Salas, Commission Secretary, PP Docket No. 00-67 and CS Docket No. 97-80 (Oct. 24, 2001) ("Thompson Letter").

3 See "Ferree Sees Progress on Compatibility," Multichannel News, November 8, 2001, available at http://www.tvinsite.com/multichannelnews/index.asp?layout=story&articleId=CA182284&pubdate=11/08/2001&display=searchResults ("I am actually encouraged by that side of the equation ... It's not all done yet, but it seems like there is significant movement there. ... I think they have industries working toward -- despite what you saw in their recent filings -- some agreement on some key points.").

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Government Relations
[illegible] N.W. Washington, DC 20005-3305 (202) 371-6900 FAX (202) 842-3578

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1. **Statement #1**: "[A] working POD module ... does not yet exist."[4]

**Correction**: As Motorola, NCTA, and others have demonstrated in prior filings, the cable industry and cable equipment manufacturers, including Motorola, invested significant resources to ensure that working POD modules were available for purchase and use with compatible host devices by the Commission's July 7, 2000 deadline.[5] A number of CE manufacturers, including Philips, Panasonic, Samsung, LG Electronics, and others, also participated in development of the POD technical specifications and have developed interoperable host products. Interoperability between Motorola and Scientific Atlanta PODs and hosts from a variety of CE manufacturers has been demonstrated. In fact, Samsung and Panasonic both demonstrated "POD enabled" TVs at last year's Consumer Electronics Show.

2. **Statement #2**: While Thompson correctly observes that "IPPV is included in the ... recently-approved DVS-295 [specification]," it incorrectly intimates that IPPV services can only "be accessed through proprietary STBs in the near term."[6]

**Correction**: The current DVS-295 host specification allows IPPV to be performed today with any host device that complies with this specification. While the development of middleware will facilitate the deployment of a more elegant IPPV product offering, this does not change the fact that CE manufacturers can incorporate IPPV applications into their integrated DTV products today consistent with the current OpenCable specifications.[7]

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4 Thompson Letter at 3.

5 See, e.g., Motorola Comments, CS Docket No. 97-80 (filed Nov. 15, 2000) ("Motorola Comments"), at 4-5; NCTA Comments, CS Docket No. 97-80 (filed Nov. 15, 2000) ("NCTA Comments"), at 8-13. In fact, during the period that the POD was developed, Motorola invested over 100 staff years in the OpenCable project and related product development activities, significantly more than any other project in Motorola's Broadband Communications Sector.

6 Thomson Letter at 3.

7 See Motorola Reply Comments, CS Docket No. 97-80 (filed on Dec. 18, 2000) ("Motorola Reply Comments"), at 7-9. CEA states that DVS-295, as well as DVS-301 (which addresses copy protection protocols for the POD-Host interface), "remain unresolved." CEA Letter at 3-5. In fact, both of these standards received final approval by the Society of Cable Telecommunications Engineers ("SCTE") on November 27, 2001. Moreover, it is important to stress that the SCTE recently earned re-accreditation from the American National Standards Institute ("ANSI") -- the U.S. national standards body -- for its current standards procedures. See *SCTE Press Release*,

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3. **Statement #3**: Both Thomson and CEA allege that the cable industry is somehow acting improperly by not passing through PSIP data to CE manufacturers for all cable programming, including encrypted programming.[8]

**Correction**: The February 2000 agreement between NCTA and CEA on PSIP required cable operators to pass through (not to generate) PSIP data only for in-the-clear channels, not for encrypted channels.[9] As NCTA has noted, the cable industry has complied with this requirement, and MSOs are currently working with CableLabs and manufacturers of PSIP-related products to conduct tests to ensure that the cable industry "is prepared to support the carriage of PSIP information in accordance with each of the implementation scenarios outlined in the agreement."[10] It is at the very least disingenuous for CEA and Thomson to criticize the cable industry for complying with the very requirements that CEA itself agreed to just last year.[11]

4. **Statement #4**: CEA and Thomson claim that cable operators have erected obstacles to the DTV transition by including certain copy protection restrictions in the PHILA license.[12]

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(... footnote continued)
"SCTE Earns ANSI Re-Accreditation," November 28, 2001, available at http://www.scte.org/Press/press Release2.asp?relnum=156. This means SCTE's operating procedures have once again been deemed to be fair, open, and balanced by ANSI's Executive Standards Council.

8 See Thomson Letter at 4; CEA Letter at 2.

9 See Letter from Robert Sachs, President and CEO, NCTA and Gary Shapiro, President and CEO, CEA to William Kennard, Chairman FCC (Feb. 22, 2000) (reporting on agreement between NCTA and CEA establishing technical requirements, including cable carriage of PSIP, to permit direct connection of consumer digital receivers to cable television systems).

10 NCTA Status Report, filed in PP Docket No. 00-67 (Oct. 31, 2001), at 5.

11 See "CEA Seeks FCC Intervention on Cable Interoperability," Warren Cable Regulatory Monitor (Nov. 12, 2001) ("[The] original [PSIP] agreement called only for pass through of relatively limited PSIP information: 'We did exactly what we said we would do in the agreement. That was what [CEA] wanted then because they didn't want to make the sets more expensive. Now they want more in order to add functionality. We are willing to talk about that.'") (quoting Neal Goldberg, General Counsel, NCTA).

12 See Thomson Letter at 4; CEA Letter at 2-3.

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**Correction**: The restrictions in the PHILA license are based on requirements from MPAA and content providers, not the cable industry. As NCTA has previously made clear, CEA's complaint actually is with these groups, which wanted even more stringent limits on program copying than PHILA would allow.[13] Moreover, the copy protection restrictions in PHILA are based on similar restrictions in the 5-C copy protection license. The 5-C license is administered by the "DTLA," which consists of the 5-C companies who are (except for Intel) CEA members. So it is hardly equitable for CEA and Thomson to criticize cable operators for the copy protection restrictions in the PHILA license, when it is the dispute between MPAA and CEA members (through DTLA) that is the source of the controversy surrounding these provisions of the PHILA.

* * *

Finally, while both CEA and Thomson argue for broad new regulatory restraints on cable operators (such as the imposition of uniform digital cable standards and acceleration of the date after which cable operators can no longer deploy integrated set-top boxes[14]), at the same time they vigorously oppose any type of new regulations on CEA manufacturers. In this regard, Thomson strongly opposes imposition of a requirement to include a DTV tuner in all televisions, alleging it is "anti-consumer and would slow, not hasten, the DTV transition."[15] Similarly, CEA

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13 See "CEA Seeks FCC Intervention on Cable Interoperability," Warren Cable Regulatory Monitor (Nov. 12, 2001) ("Otherwise the studios won't give us the programming. The CEA wants no limits on copying, the studios want complete protection, and [cable is] in the middle.") (quoting Neal Goldberg, General Counsel, NCTA). Indeed, even Circuit City has recognized the cable industry's difficult position on this copy protection issue. See Written Testimony of John W. Froman, Executive Vice-President, Merchandising, Circuit City Stores, Inc., Before the House Commerce Committee, Subcommittee on Telecommunications, Trade and Consumer Protection, Hearing on the Future of the Interactive Television Services Marketplace (October 6, 2000), at 3-4 (noting that "CableLabs faces an explicit threat, from the Motion Picture Association, that content would be withheld from cable systems unless this license were to include severe restrictions on the recording, and even the display, capabilities of consumer electronics and information technology products").

14 Motorola, NCTA, and others have previously explained why acceleration of the integrated set-top box ban is anti-consumer, anti-innovation, and anti-competition, and Motorola hereby incorporates these responses by reference. See Motorola Comments at 12-21; Motorola Reply Comments at 19-20; NCTA Comments at 27-41; NCTA Reply Comments, CS Docket No. 97-80 (filed Dec. 18, 2000), at 24-45; Response of NCTA to the Consumer Electronics Retailers Coalition Ex Parte Submission, CS Docket No. 97-80 (filed Sept. 21, 2001), at 17-33.

15 Thomson Letter at 5. See also CEA Comments, filed in MM Dkt. No. 00-39 (Apr. 6, 2001), at 5-10 ("If the market can be trusted to determine how well a DTV tuner should perform, by rewarding innovation and new

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has previously urged the Commission to reject proposals that it mandate DTV receiver standards.[16] Motorola agrees with CEA that the marketplace is the best arbiter of these technical issues, particularly in the highly dynamic digital TV environment. But this principle must be applied fairly and equally with respect to all players that are investing in the DTV transition, not simply to CEA's members.

Sincerely,

Christine G. Crafton

Christine G. Crafton, Ph.D.
Vice President & Director
Broadband Policy

cc: Chairman Michael K. Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Kenneth Ferree, Chief, Cable Services Bureau
Tom Horan, Legal Advisor to Chief, Cable Services Bureau
Paul Gallant, Special Advisor, Cable Services Bureau
William Johnson, Deputy Chief, Cable Services Bureau

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(... footnote continued)
capabilities, then the consuming public -- and not the government -- should also be the arbiter of whether a DTV tuner is desired in the first place, among the wide variety of video products that are now available."); Letter from Gary Shapiro, President and CEO, Consumer Electronics Association, to William E. Kennard, Chairman, Federal Communications Commission, filed on November 14, 2000 ) ("[I]t is essential that consumers retain their ability to buy televisions with a wide range of capabilities at a variety of price points, and not be required by the government to pay for advanced capabilities that they do not yet need or want.").

16 See CEA Comments, filed in CS Docket 98-120 (Oct. 13, 1988), at 25-26 ("On multiple occasions the Commission consistently and correctly has held that competitive market forces will ensure that DTV receivers perform adequately, and that television manufacturers are in the best position to ensure that their products meet and exceed consumer expectations."); CEA Comments, filed in MM Docket No. 00-39 (May 17, 2000), at 12-16 ("Mandatory receiver performance standards would be unwise because their most likely effect would be to dampen the competitive incentive to improve receivers and thereby limit consumer choice.").

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Deborah Klein, Division Chief, Consumer Protection and Competition Division, CSB
Steve Broeckhart, Deputy Chief, Consumer Protection and Competition Division, CSB
John Wong, Division Chief, Engineering and Technical Services Bureau, CSB
Michael Lance, Deputy Chief, Engineering and Technical Services Bureau, CSB
Robert Pepper, Chief, Office of Plans and Policy
Amy Nathan, Senior Legal Counsel, Office of Plans and Policy
Jonathan Levy, Deputy Chief Economist, Office of Plans and Policy
Bruce Franca, Acting Chief, Office of Engineering and Technology
Alan Stillwell, Associate Chief, Office of Engineering and Technology
Rick Chessen, Associate Bureau Chief (Law), Mass Media Bureau
Michael Petricone, Vice President, Technology Policy, CEA
David A. Nall, Counsel for CEA
Lawrence R. Sidman, Counsel for Thomson Multimedia