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**MCDERMOTT, WILL & EMERY**

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DEC 17 2001

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**VIA FEDERAL EXPRESS**

Ms. Magalie R. Salas  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

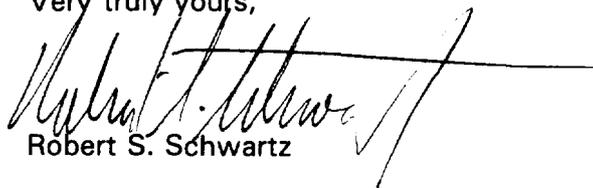
**Re: *Ex Parte* Presentation; In the Matter of Compatibility Between Cable Systems and Consumer Electronics Equipment; PP Docket No. 00-67; In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices; CS Docket No: 97-80**

Dear Ms. Salas:

This is to notify the Office of the Secretary that on December 13, 2001, on behalf of the Home Recording Rights Coalition, Robert S. Schwartz of McDermott, Will & Emery made an *ex parte* presentation to Kenneth Ferree, Susan Mort, Steven Broeckert, Mike Perko, Mike Lance, Amy Nathan, William Johnson, Rick Chessen, Mary Beth Murphy, Keith Larsen, Robert Pepper, Jonathan Levy, and Michelle Walters. A copy of the written presentation disclosing the substance of the discussion is enclosed with this notice.

In accordance with Section 1.1206 of the Federal Communications Commission rules, this letter is being provided to your office. A copy of this notice has been delivered to the parties listed above.

Very truly yours,

  
Robert S. Schwartz

Enclosure

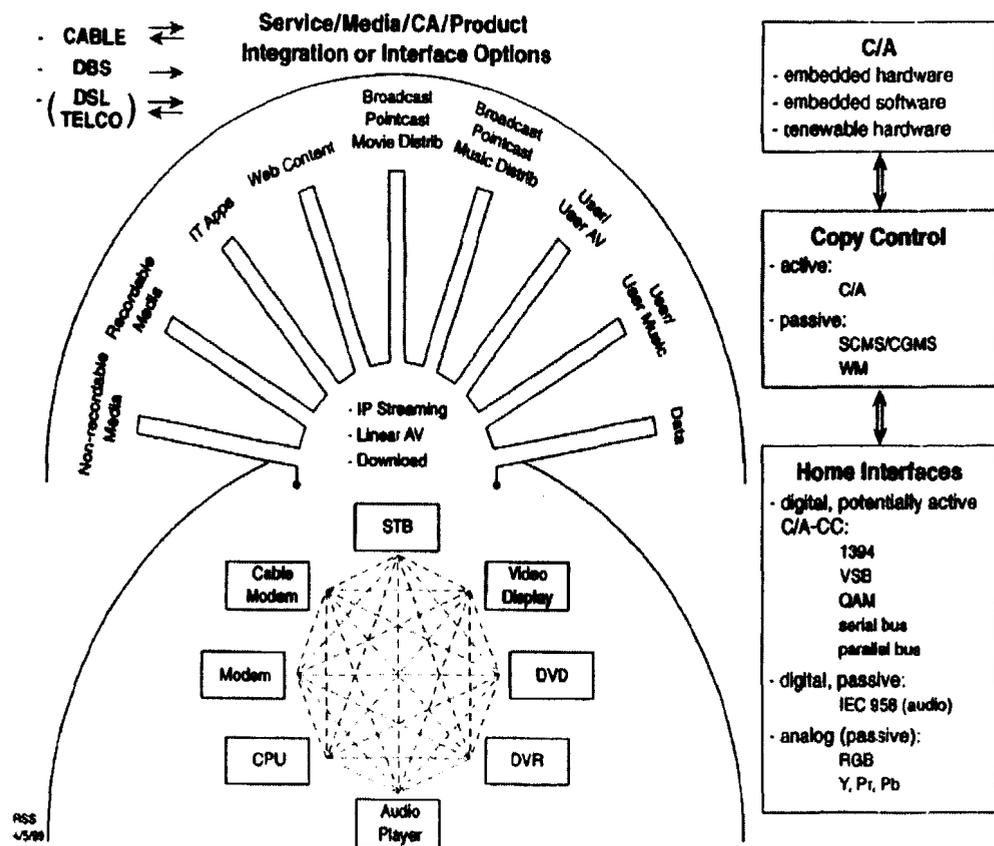
# THE STRUGGLE FOR THE HOME NETWORK

- The Internet links the home network and content distribution networks.
- Concerns over Internet redistribution have led to proposals for total content owner control of the home network.
- Examining the functions and interfaces that comprise present and future "set-top boxes" illuminates the issues.

*Robert S. Schwartz  
Rschwartz@MWE.com  
November 14, 2001*

# Home Network vs. Distributed Network

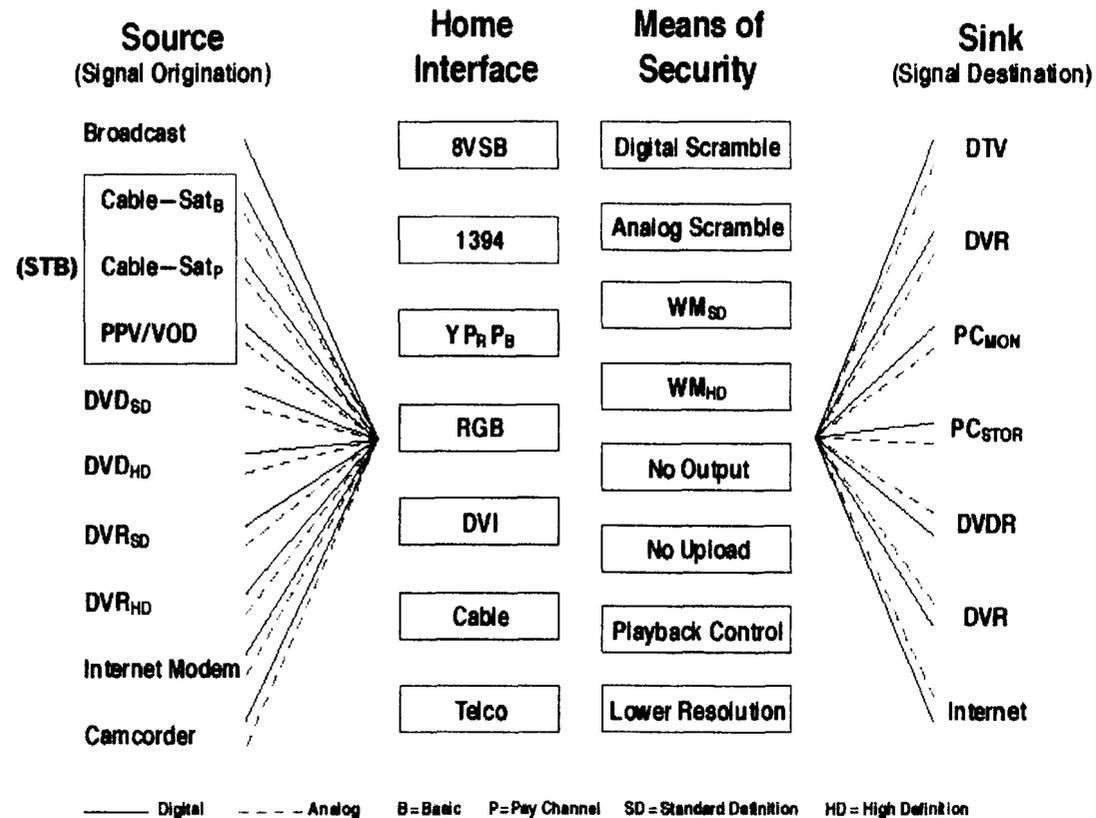
- At time of Betamax case, IP issues as to external distribution networks and home networks were separate.
- While content owners sometimes attempted to confuse piracy with private home network practices, the argument always failed.
- Broadband distribution networks now interact with home networks via the Internet.
- In technical and policy arenas, some distribution issues arise in home, & "solutions" are sought there as well.



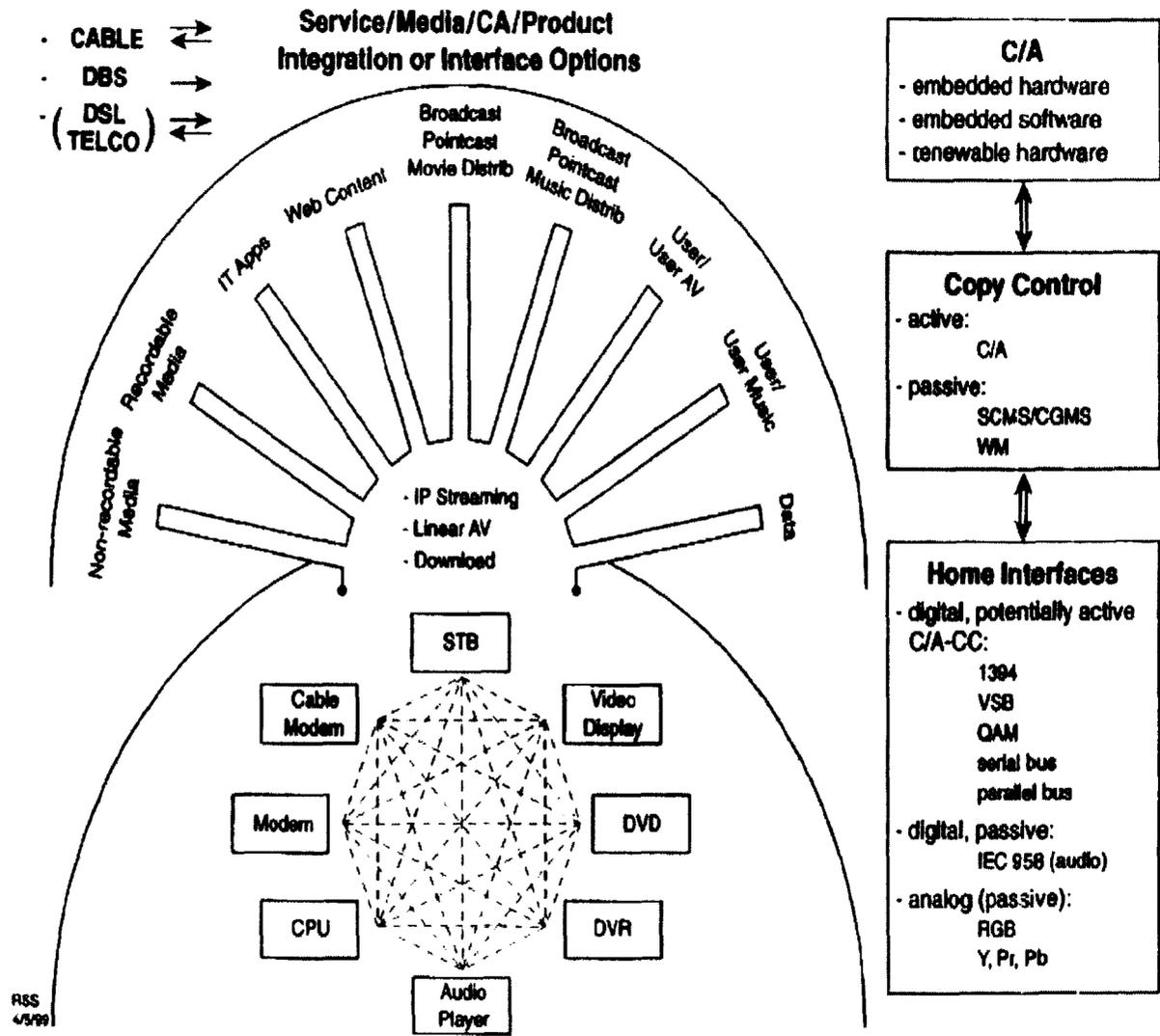
# Means Of Controlling Home Network Interfaces

- Broadband interfaces may be baseband or RF, analog or digital, uni-directional or bi-directional, full bandwidth or compressed.
- Ability to **select the interface** may equal ability to dictate product and network performance.
- Content owners may use one technique or data type to trigger another -- e.g., **"selectable outputs."**

## Interfaces Relevant to Issues

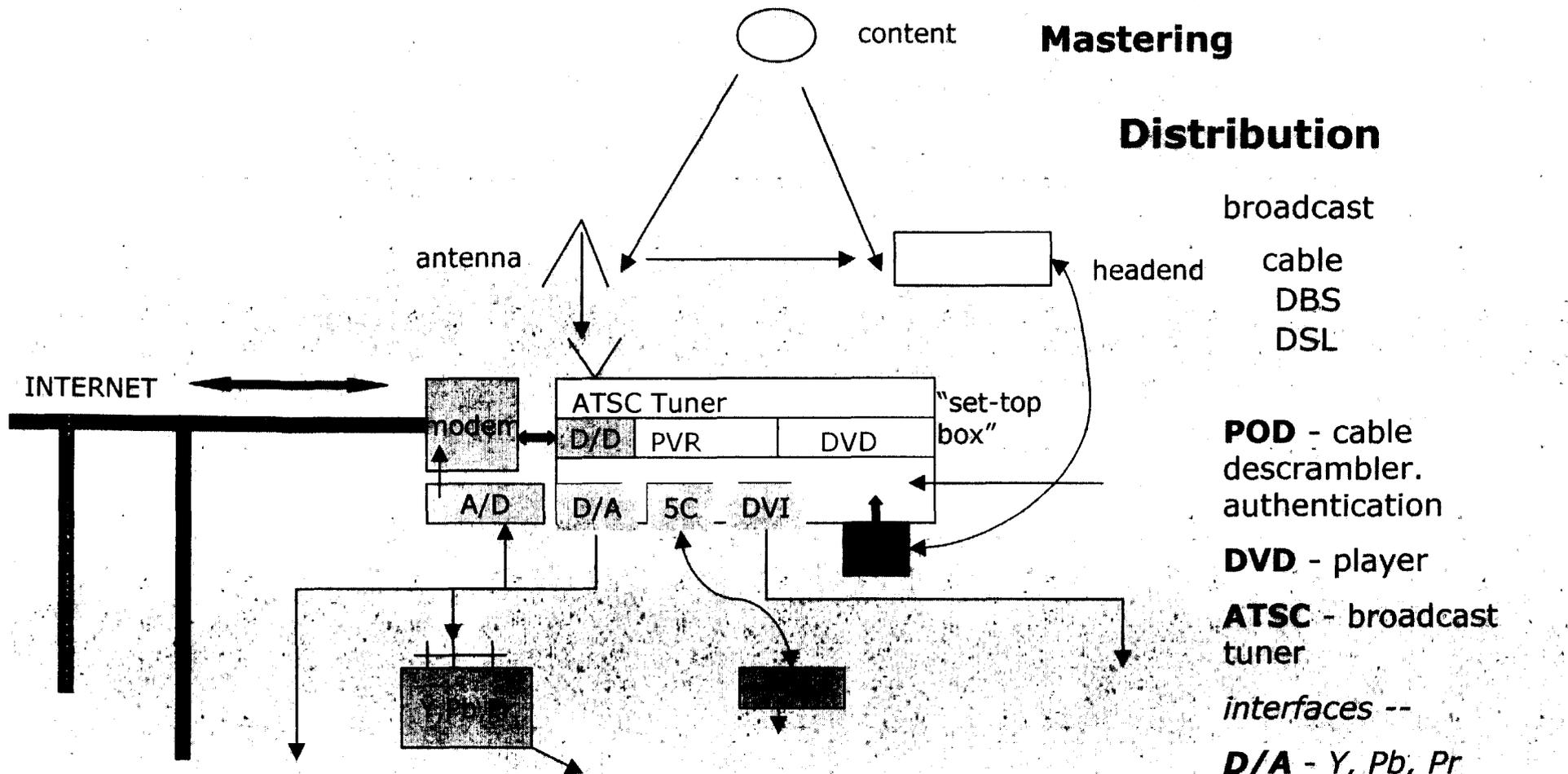


A "set-top box" In reality represents a number of internal and external home network interfaces.





# STB, A Bundle of Functions and Interfaces



- Degree of function integration a tradeoff, efficiency vs. obsolescence.
- Internal interfaces expected to be "robust," external interfaces expected to be "compliant," software expected to be "tamper proof."

**POD** - cable descrambler. authentication

**DVD** - player

**ATSC** - broadcast tuner

*interfaces --*

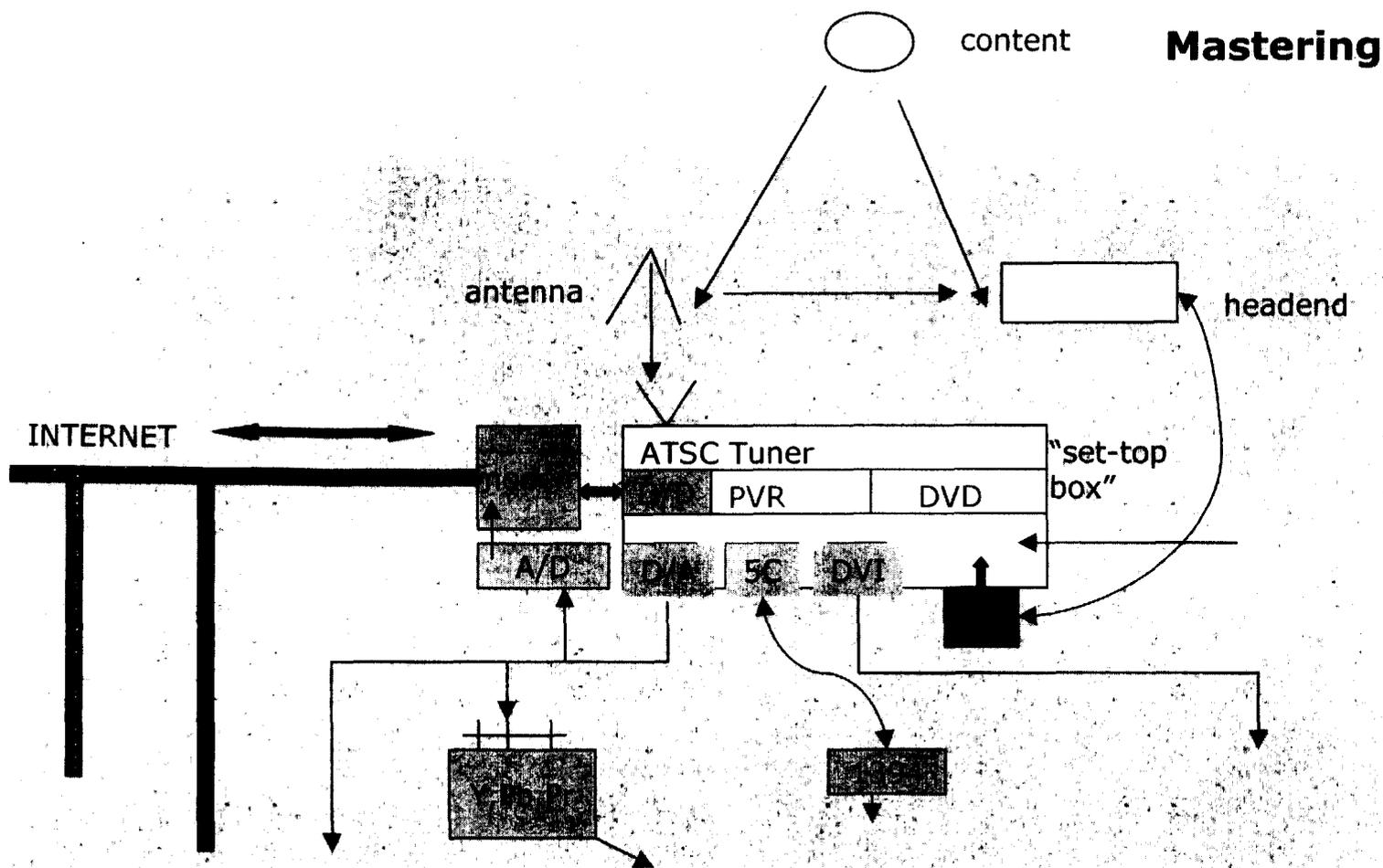
**D/A** - Y, Pb, Pr

**A/D** - MPEG

**D/D** - modem, 1394/5C, DVI/HDCP

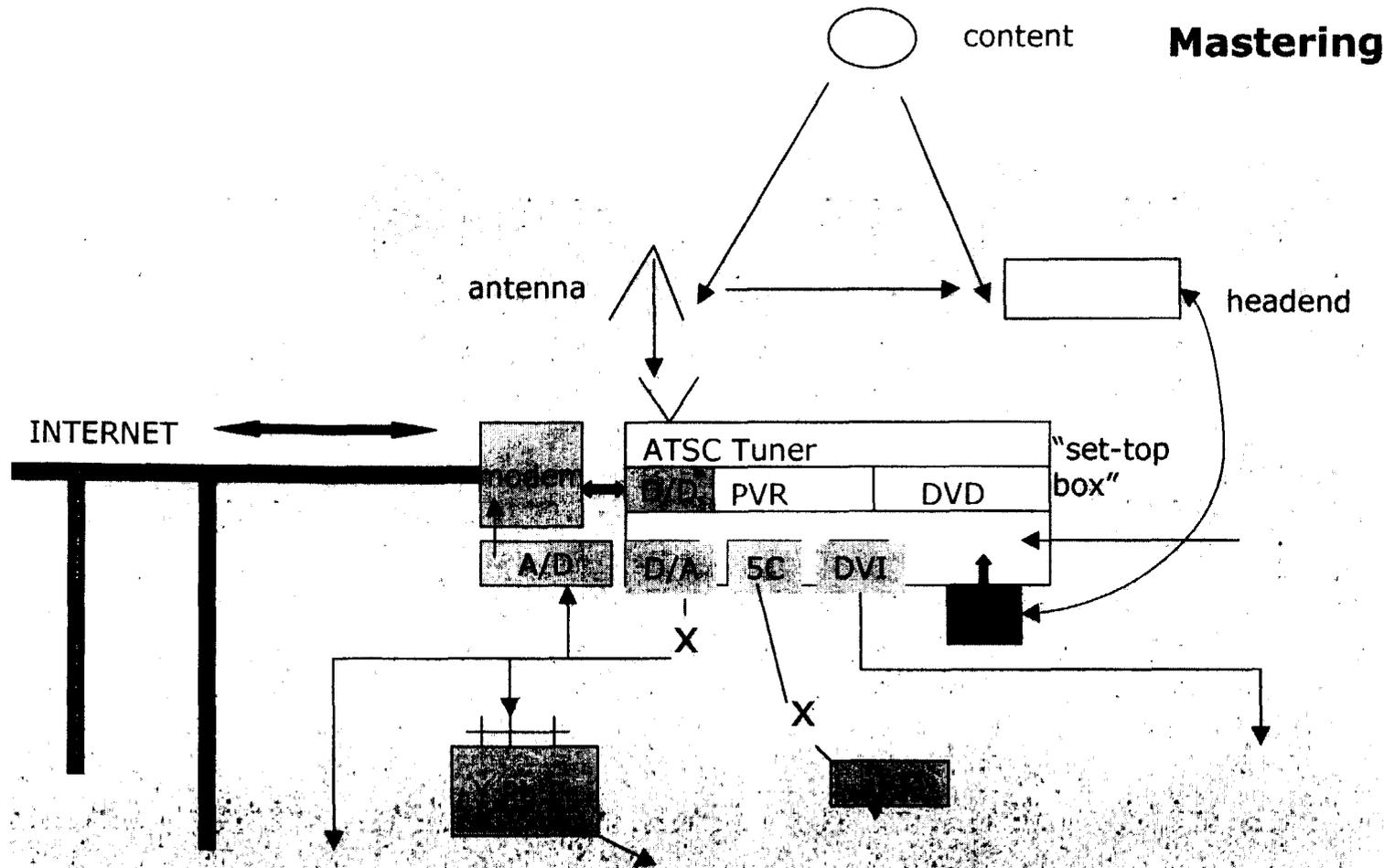
Robert S. Schwartz  
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# "Disney" Agenda



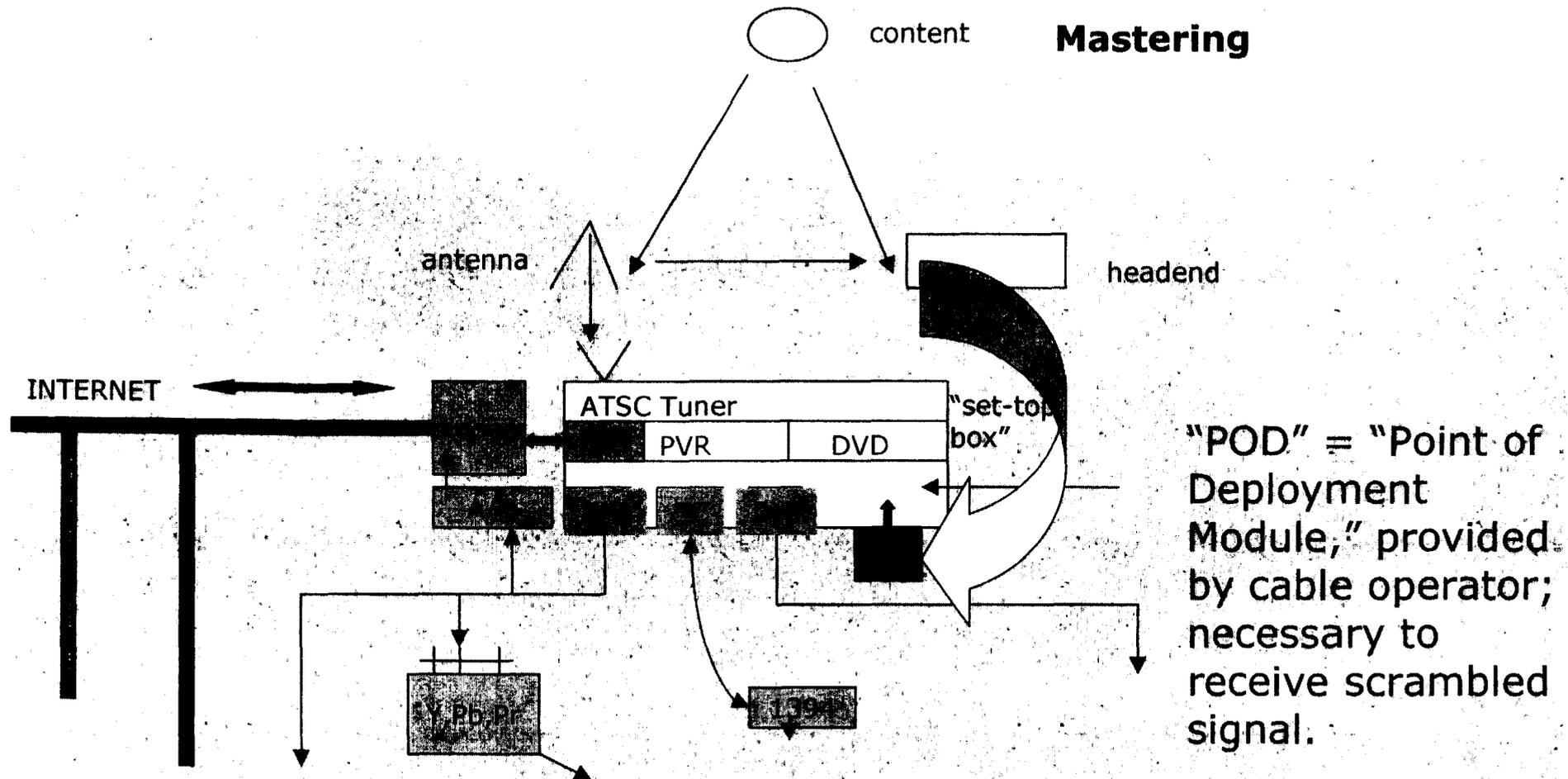
- Equal treatment for broadcast content, re redistribution and copy protection, with all forms of cable or satellite distribution.
- Legislation to control (1) redistribution to Internet, (2) home network.

# "Fox" Agenda



- Require carriage and adherence to "selectable output" triggers in all devices.
- Apply "selectable output" triggers to give content owner ability to shut off any or all home network interfaces (other than DVI/HDCP, if not broken).

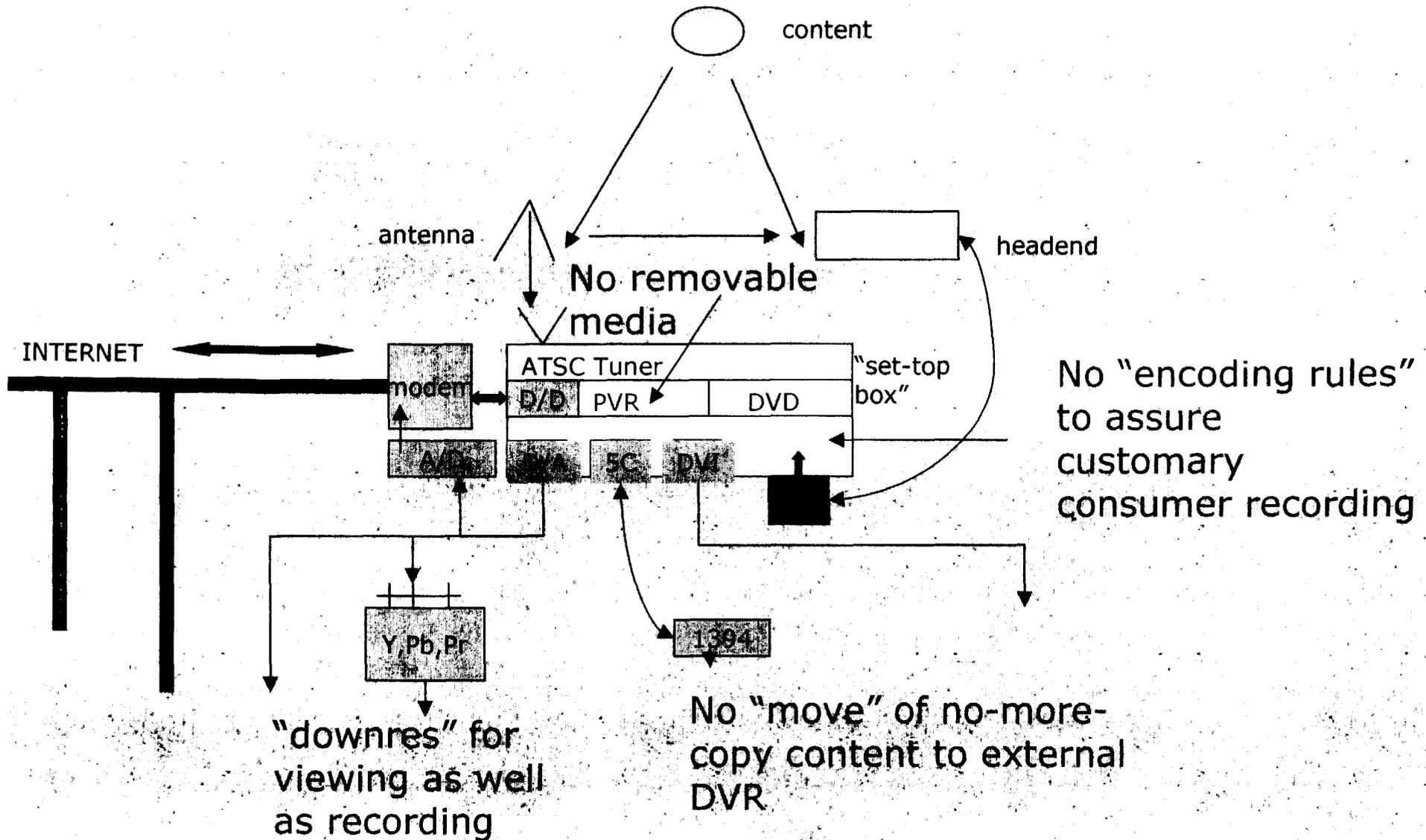
# POD-Host Interface License Agreement ("PHILA")



"POD" = "Point of Deployment Module," provided by cable operator; necessary to receive scrambled signal.

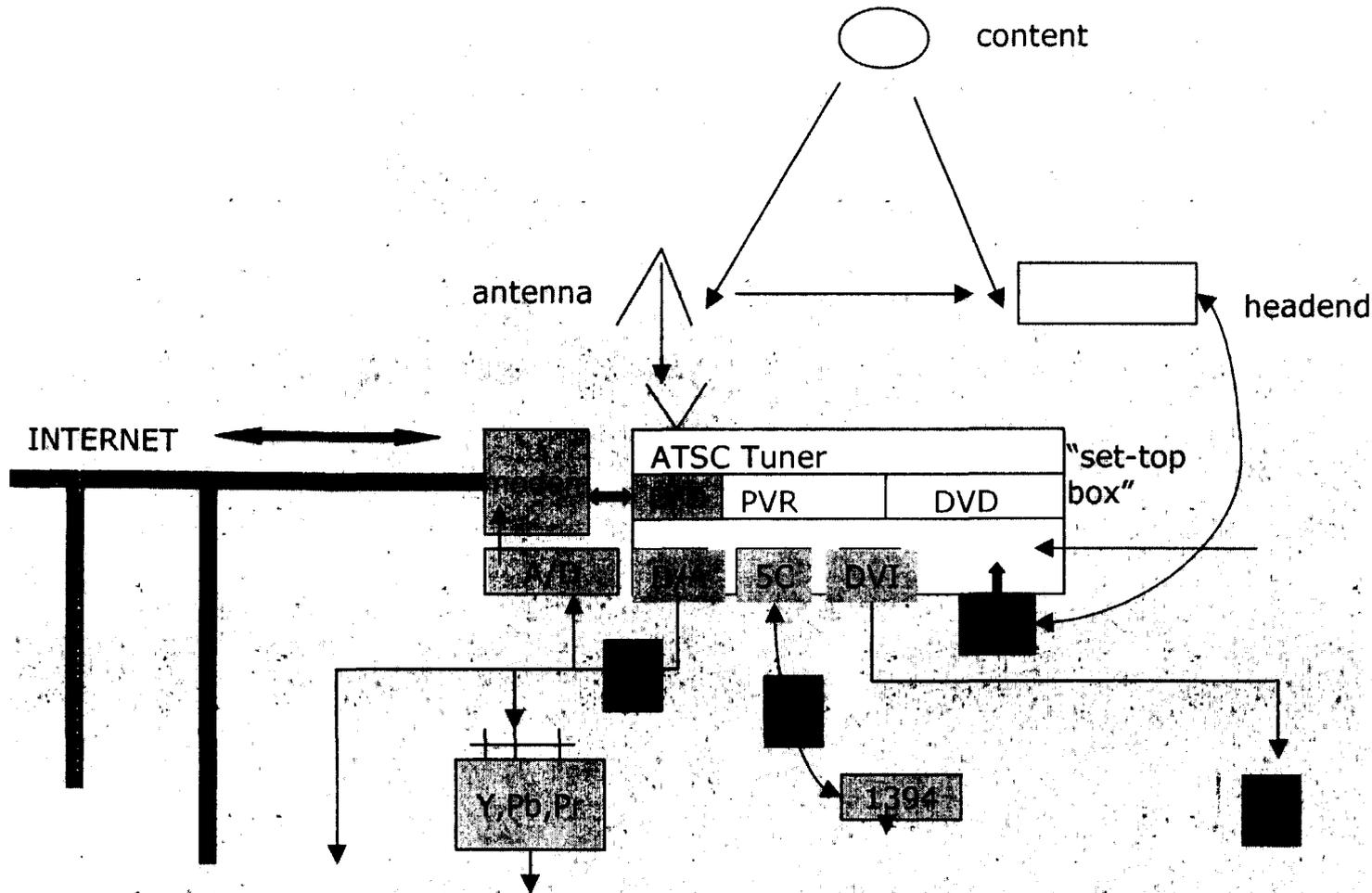
- Operation of competitive device requires connection to a "**POD.**"
- Unless manufacturer signs the PHILA, cannot make or distribute any device (STB, DTV, DVR, etc.) that accepts a POD.
- PHILA imposes license, compliance, robustness, and specification rules as condition of building CE or IT device for connection to digital cable.

# POD-Host Interface License Agreement ("PHILA")



- The draft PHILA text has restrictions that would interfere with consumer enjoyment, including viewing on current HDTV monitors.

## Interaction, PHILA and OCAP Spec



- **PHILA** requires compliance with all major parts of **CableLabs** specs.
- The "OpenCable Access Platform" ("**OCAP**") spec is still under NDA; may require devices to respond to all "selectable output control" triggers.

# HRRC View Re Legislation

## Re The "DTV Transition"

*Robert S. Schwartz  
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December 13, 2001*

# Digital Millennium Copyright Act (DMCA)

- DMCA (passed 1998) useful for enforcing "DRM" type constraints.
  - "**Circumvention**" of a "technical measure" that is "effective in ordinary course of operation" may be enjoined.
- DMCA not useful to compel response to "trigger" or "status" data.
  - "**No mandate**" (1201(c)(3)) prevents inference of obligation to read and respond to trigger or status bits alone.
  - Manufacturer is free to ignore bits in design or redesign of product.

## "Hollings Bill"

- Draft "SSSCA" would give total control of home network to content provider.
  - Would cover all "digital" products that store, transmit, display; e.g., abacus, wristwatch.
  - No guidance as to relationship of product, technical measure, and intended result.
  - Once any discussion between content provider and device manufacturer on proposed technical measure, National Institute of Standards and Technology (NIST) must create **mandated measure** if no agreement in 12 or 18 months!

## Technologies Potentially Emerging From New Work Group Associated With CPTWG

- (Phase I) In the ATSC tuner, read and respond to the "ATSC Redistribution Bit," or a watermark, so as to generate an encrypted digital stream that cannot be sent to the Internet.
- (Phase II) In A/D converters (downstream from "STBs") designed to format entertainment programming, read and respond to a WM, to (1) prevent Internet redistribution and (2) enable copy control where appropriate.

## Potential Legislative / Regulatory Issues Raised By Output of Work Group

- Technologies emerging from Phase I and Phase II not likely to be self-enforcing--
  - A “flag” or WM can be ignored by an ATSC tuner unless there is some duty to read and respond.
  - A “watermark” can be ignored by a downstream A/D converter serving as front end for an upload to the Internet or a digital video recorder.

## HRRC Position Re Potential Legislation Or Regulatory Enactment

- HRRC would consider supporting a regulatory or legislative mandate if:
  - (1) the issue cannot be addressed effectively by private sector standards or licensing activity alone,
  - (2) the result promotes rather than hinders technical progress and legal certainty,
  - (3) the mandate is of a *known technology* and as narrow as possible, and
  - (4) the outcome protects *consumers' reasonable and customary expectations*.



## Scope Of Law Or Regulation HRRC Might Consider Appropriate Re DTV Transition

- Address only (1) Internet Redistribution and (2) license enforcement re C/A content.
  - Provider of commercial content should be able to prevent mass redistribution in competition with the original.
  - License agreements with fair “encoding rules” may lack means for enforcement.
  - A copy control regime that is fair to consumers is preferable to imposition of broader measures such as “output selection” or “downresolution.”

## Possible Application To Output of New Work Group

- HRRC would consider supporting:
  - FCC regulation (or legislation) to require ATSC tuners to read and respond to "ATSC Redistribution Descriptor Flag" if recommended by Work Group as a means to allow control over Internet Redistribution of broadcast content.

## Possible Application To Output of New Work Group

- HRRC would also consider supporting:
  - Legislation to require specifically defined A/D converter devices to read and respond to a consensus WM for copy control purposes, PROVIDED (a) appropriately narrow definitions of devices and what constitutes a consensus, (b) private sector WM consensus technology is well known and understood at time of passage, and (c) inclusion of "encoding rules" similar to those in 1201(k) of the DMCA (e.g., PPV / VOD may be "no copy"; paid channels "1 generation"; free broadcasts remain freely copiable).

**HRRC Is Opposed To**

**Terrestrial Broadcasts**