

Before the  
Federal Communications Commission  
Washington, D.C. 20554

_____	)	
Implementation of Section 304 of the	)	
Telecommunications Act of 1996	)	CS Docket No 97-80
	)	
Commercial Availability of Navigation Devices	)	
	)	
Compatibility Between Cable Systems and	)	
Consumer Electronics Equipment	)	PP Docket No. 00-67
_____	)	

**PETITION FOR RECONSIDERATION OF  
THE MOTION PICTURE ASSOCIATION OF AMERICA, INC., METRO-  
GOLDWYN-MAYER STUDIOS INC., PARAMOUNT PICTURES  
CORPORATION, SONY PICTURES ENTERTAINMENT INC.,  
TWENTIETH CENTURY FOX FILM CORPORATION, UNIVERSAL  
CITY STUDIOS LLLP, AND THE WALT DISNEY COMPANY**

Jon A. Baumgarten  
Bruce E. Boyden  
Proskauer Rose LLP  
1233 Twentieth Street NW, Suite 800  
Washington, DC 20036  
(202) 416-6800

*Counsel for the Petitioners*

February 27, 2004

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

_____ )	
Implementation of Section 304 of the )	
Telecommunications Act of 1996 )	CS Docket No 97-80
Commercial Availability of Navigation Devices )	
Compatibility Between Cable Systems and )	
Consumer Electronics Equipment )	PP Docket No. 00-67
_____ )	

**PETITION FOR RECONSIDERATION OF  
THE MOTION PICTURE ASSOCIATION OF AMERICA, INC., METRO-  
GOLDWYN-MAYER STUDIOS INC., PARAMOUNT PICTURES  
CORPORATION, SONY PICTURES ENTERTAINMENT INC.,  
TWENTIETH CENTURY FOX FILM CORPORATION, UNIVERSAL  
CITY STUDIOS LLLP, AND THE WALT DISNEY COMPANY**

The Motion Picture Association of America, Inc., Metro-Goldwyn-Mayer Studios Inc., Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Twentieth Century Fox Film Corporation, Universal City Studios LLLP, and the Walt Disney Company respectfully request that the Commission reconsider its recent *sua sponte* Order on Reconsideration in this proceeding. FCC 03-329 (rel. Dec. 23, 2003), 69 Fed. Reg. 4081 (Jan. 28, 2004) (the "Order").

The Order indicates that the reason for the amendment of the definition of Unencrypted broadcast television is to make clear that the Subpart W encoding rules apply to MVPD retransmissions, whether encrypted or not, of unencrypted over the air broadcasts. However, it does not explain the reason for the deletion of a number of words that are critical to the very notion of "retransmission" (originally, "further transmission"). These words have no bearing on

the stated purpose of the amendment. (We note that those words were found in the MOU that preceded and influenced the Commission's order on Unidirectional Digital Cable Products, as well as the Order at issue here.)

The effect of the deletion is, at the very least, to render the meaning of the term "retransmission" quite uncertain. A subscription program offering that is not otherwise precluded from being subject to down resolution and/or "copy once" or "copy never" forms of content protection (as appropriate), may in fact have been the subject of an unrelated unencrypted digital broadcast in the remote or near past. By virtue of the Order, the simultaneity requirement has been eliminated — indeed, explicitly deleted. It is not clear whether the subscription offering may be considered a "retransmission" of the initial broadcast and hence no longer (and for no apparent reason) subject to use of those content protection techniques. Other cases are described and illustrated in the Petition for Reconsideration and Clarification of the National Cable & Telecommunications Association dated February 26, 2004 in this docket (at pages 3-4).

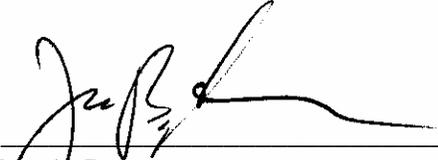
Additionally, because at least one output technology that is likely to be permitted on Unidirectional Cable Products is 5C's DTCP, precluding the adoption of such techniques in these cases will produce practical conflict with downstream content protection, and cause actual forfeiture of such protection. That is because (a) the deleted words are an important component of the DTCP license's exclusion from treatment as a "Conditional Access Delivery" — that is, a "retransmission" under the amended definition will remain a "Conditional Access Delivery" for DTCP purposes; and (b) although Conditional Access Deliveries are generally subject to down-resolution under the DTCP license, they will generally lose that protection if output from a DTCP licensed Unidirectional Cable Product in full resolution high definition analog form, as apparently now required by the amendment. Under the terms of the DTCP license, a

“retransmission” that is barred from down resolution under this amendment will be required to forfeit down resolution protection it would otherwise have enjoyed in DTCP sink devices, such as digital video recorders. (As noted earlier, the copy constraints available under DTCP will also be impaired.)

There is no meritorious reason, nor has any reason been suggested, why down resolution, copy once, or copy never content protection techniques, as otherwise appropriate, should be unavailable in these cases. Although the Commission has opened an inquiry into down resolution of subscription offerings in its Second Further Notice of Proposed Rulemaking, we respectfully urge that it should not prejudge the answer to that inquiry by amendment to its earlier Order. The Commission should restore the deleted words to the definition of unencrypted broadcast television.

Respectfully submitted,

THE MOTION PICTURE ASSOCIATION OF  
AMERICA, INC.  
METRO-GOLDWYN-MAYER STUDIOS INC.  
PARAMOUNT PICTURES CORPORATION  
SONY PICTURES ENTERTAINMENT INC.  
TWENTIETH CENTURY FOX FILM  
CORPORATION  
UNIVERSAL CITY STUDIOS LLLP  
THE WALT DISNEY COMPANY

by:  \_\_\_\_\_

Jon A. Baumgarten  
Bruce E. Boyden  
Proskauer Rose LLP  
1233 Twentieth Street NW, Suite 800  
Washington, DC 20036  
(202) 416-6800  
*Counsel for the Petitioners*