

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:

Digital Broadcast Content Protection

MB Docket 02-230

COMMENTS OF DOLBY LABORATORIES

San Francisco, March 10, 2004

Dolby Laboratories (“Dolby”) respectfully submits the following comments in response to the Petition for Reconsideration, filed by the National Music Publisher's Association et al. (“NMPA”) on November 31, 2003 (“the Petition”), of the Commission’s recent *Order* in the Digital Broadcast Content Protection proceeding Digital Broadcast Content Protection, *Report and Order and Further Notice of Proposed Rule Making*, MB Docket No. 02-230, FCC 03-273 (rel. Nov. 4, 2003) (“*Order*”). Dolby opposes NMPA’s proposal that AC-3 content associated with either Unscreened or Marked Content should be restricted to Protected Outputs.¹ Contrary to the spirit of the Commission’s *Order*, this proposal would lead to the obsolescence of billions of dollars worth of currently relied upon video and audio equipment.

Dolby Laboratories is an acknowledged world leader in the field of audio signal processing technology. Dolby technology is widely used in the recording, motion picture,

¹ As a licensor of valued intellectual property, Dolby is concerned with the future of digital content delivery and the claims of future potential harm expressed in the Petition. Nevertheless, as discussed herein, Dolby firmly believes that the solution proposed in the Petition is unduly burdensome to consumers.

broadcast, and consumer electronics industries. In particular, the AC-3 multi-channel audio technology, developed by Dolby, is the ATSC standard for digital television audio transmission.² Besides terrestrial digital television, AC-3 is also used in satellite and cable programming, and in DVDs worldwide. AC-3 also has become the de-facto standard for multi-channel audio interfacing within the home. It has been licensed to more than 430 companies and deployed in over 500 million devices worldwide.

In the home, the overwhelming majority of installations capable of reproducing multi-channel audio rely on a standalone device, the “Home Receiver,”³ to decode incoming AC-3 content and direct the resulting multi-channel audio signal to speakers.⁴ AC-3 content may be received from a variety of sources, including an ATSC demodulator in the case of over-the-air DTV programming, or a set-top box in the case of satellite or cable programming, or a DVD player.⁵ The Home Receiver is a relatively costly device, retailing for over \$300 on average, which also serves as amplifier and analog video router in addition to acting as a decoder. Approximately 39 million AC-3-enabled Home Receivers have been sold worldwide, with over 25 million in this country alone. All Home Receivers require in-the-clear – as opposed to encrypted or otherwise scrambled – AC-3 content and would not be capable of decoding AC-3 content received from a Protected Output.

² AC-3 allows the distribution and reproduction of audio content consisting of 5 discrete audio channels (Left, Center, Right, and Right Surround) and one special effects channel.

³ The term “Home Receiver” is specifically distinct from the TV receiver in the present context.

⁴ A number of cable, ATSC and satellite STB decode the incoming AC-3 content to stereo content for compatibility with older equipment.

⁵ Currently deployed satellite, cable, or DVD systems do not require protection of AC-3 content.

In its Petition, NMPA insists that output of AC-3 content associated with either Unscreened or Marked Content should be restricted to Protected Outputs. Home Receivers and other AC-3 decoding devices currently deployed are not compatible with these Protected Outputs. Such a restriction would therefore make obsolete *tens of millions of consumer devices*, preventing consumers from enjoying multi-channel audio provided by digital television programming.

In its recent *Order*, the Commission emphasized that the broadcast flag regime will not, and must not, lead to the mass obsolescence of legacy equipment.⁶ This opinion was shared by most industry participants.⁷ In contrast to restrictions on digital video outputs, which will impact a limited number of devices, restrictions on AC-3 outputs would result in a “calculus change” for consumers.⁸ If enacted, such restrictions would in fact have an effect similar to that of encryption at the source to protect over-the-air programming, an approach that was dismissed as being too burdensome.⁹ The cost to consumers to replace 25 million receivers at an average cost of \$300 would be 7.5 billion dollars. This would erect an unnecessary roadblock to the digital television transition.

⁶ At ¶24 of its *Order*, the Commission notes “We view the obsolescence of legacy equipment as particularly burdensome on consumers.” In a separate statement, Commissioner Copps notes “And we seek to avoid stranding legacy equipment that must be replaced to receive protected content.” Commissioner Adelstein similarly notes, “In the end, I hope our adoption of a broadcast flag protection regime does not end up costing consumers greatly, through direct expense, reduced functionality of legacy devices, or the loss of innovative ways of watching, recording, or using digital television.” Commissioner Abernathy further adds, “Unlike encryption at the source, a broadcast flag solution will not render legacy devices obsolete and will not force consumers to purchase new or additional equipment to receive their broadcast programming.”

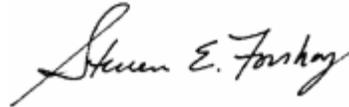
⁷ See *Order* at ¶23.

⁸ At ¶19 of its *Order*, the Commission notes “The number of legacy devices existing today is still sufficiently small that content owners remain willing to provide high value content to broadcast outlets. At some point, however, when the number of legacy devices becomes too great, that calculus will change.”

⁹ See *Order* at ¶24.

In conclusion, Dolby urges the Commission to carefully examine the potentially catastrophic impact of the Petition's proposed amendments in the course of its review. Millions of deployed consumer devices rely on in-the-clear AC-3 content to allow consumers to enjoy multi-channel digital television programming. Restricting output of AC-3 content would make these devices obsolete, an undesirable outcome the Commission has strived hard to avoid.

Respectfully submitted,



Steven E. Forshay
Vice President
Research Division
Dolby Laboratories, Inc.

March 10, 2004