

**Agreement Concerning Equivalent ATPs  
February 20, 2004**

Background

Cable Television Laboratories, Inc. ("CableLabs") provides independent Verification testing of digital TVs (DTVs) having a CableCARD interface that are built to conform to the requirements of Unidirectional Digital Cable Products (UDCPs) as defined in the FCC Rules for unidirectional "Plug & Play" products. The testing provided verifies that a product successfully passes each of the PICS identified in the Joint Test Suite Conformance Checklist: PICS Proforma for UDCPs ("PICS"). Testing is performed in accordance with the Acceptance Test Plan posted at [www.cablelabs.com/udcp](http://www.cablelabs.com/udcp) ("ATP") and the procedures set forth in Test Guidelines for Unidirectional Digital Cable Products. The PICS and ATP collectively are known as the Joint Test Suite ("JTS"). "Verified" means that the UDCP Verification Panel has determined that the model submitted satisfies the JTS.

Verification testing may also be offered by an appropriately qualified independent laboratory. Once a Manufacturer has successfully completed Verification for one UDCP DTV product, subsequent UDCP models may be Self-Verified according to applicable procedures.

The Memorandum of Understanding and proposed Technical Regulations submitted by the cable and CE industries to the FCC on December 19, 2002, provided that Verification by an independent lab and Self-Verification by a previously Verified Manufacturer would be governed by the "Test Suite," defined as "the set of tests jointly developed and mutually agreed by CableLabs and CEA." A variation on this formulation was adopted by the FCC, which is presently the subject of a Petition for Reconsideration filed by NCTA.

Manufacturers have expressed an interest in testing products against the PICS using a test plan that differs from the ATP. In some cases, it is contemplated that the test plan will utilize equipment or procedures that may be proprietary. The cable parties to the Memorandum of Understanding have expressed the view that the ATP jointly developed and mutually agreed by CableLabs and CEA should be the ATP used in all locations, and that it should evolve through consultation and mutual agreement.

In order to resolve this disagreement, the parties have reached an understanding that combines private agreements with agreements to support changes to the FCC rules, in order to assure that equivalent testing arrangements are followed by CableLabs or an independent lab for Verification testing, and by all interested manufacturers during Self-Verification.

## Agreement

Therefore, the undersigned agree that:

1. On or before February 6, 2004, CEA will present to CableLabs some sample variations in test equipment and test procedures with sufficient information and test results to demonstrate their equivalence to the ATP, which is the mutually agreed upon Baseline for test procedures.
2. CEA will support the companion agreement under which Manufacturers may test for conformity to the PICS with an Equivalent ATP, attached as Exhibit B.
3. The ATP shall be modified as indicated in Exhibit C.
4. Changes to the ATP shall continue to evolve through joint development and mutual agreement by CableLabs and CEA.
5. On or before March 10, 2004, CEA will support the rule changes sought in NCTA's Petition for Reconsideration filed December 29, 2003 in CS Docket No. 97-80, with the additional clarifications shown in the attachment to this agreement. The Parties will endeavor vigorously to obtain the support (or non-opposition) of associations and other groups for this Petition for Reconsideration. The Parties will cooperate in updating FCC rules to account for mutually-agreed upon changes in the JTS.
6. This agreement will become effective upon signature by CableLabs and CEA.

Cable Television Laboratories, Inc.

*Christopher J. Jannella*

Consumer Electronics Association

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Agreement

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Cable Television Laboratories, Inc.

  

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Consumer Electronics Association

  
  

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**Exhibit A**  
**Proposed Rule Changes**

The amendments to the regulations should be as follows:

**§15.38 Incorporations by Reference. \*\*\***

(c) The following materials are freely available from at least one of the following addresses: Cable Television Laboratories, Inc., 858 Coal Creek Circle, Louisville, Colorado, 80027, [www.cablelabs.com/udcp](http://www.cablelabs.com/udcp); or at Consumer Electronics Association, 2500 Wilson Blvd., Arlington, VA 22201, [http://www.ce.org/public\\_policy](http://www.ce.org/public_policy).

(1) Uni-Dir-PICS-I01-030903: “Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,” 2003, IBR approved for §15.123.

(2) Uni-Dir-ATP-I02-040225: “Uni-Directional Receiving Device Acceptance Test Plan,” 2004, IBR approved for §15.123.

**§15.123 Labeling of Digital Cable Ready Products.**

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(c) \*\*\*

(1) The manufacturer or importer shall have a sample of its first model of a unidirectional digital cable product tested to show compliance with the procedures set forth in Uni-Dir-PICS-I01-030903: “Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma” (incorporated by reference, see § 15.38) at a qualified test facility. If the model fails to comply, the manufacturer or importer shall have any modifications to the product to correct failures of the procedures in Uni-Dir-PICS-I01-030903: “Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma” (incorporated by reference, see § 15.38) retested at a qualified test facility and the product must comply with the applicable procedures in § 15.38 before the product or any related model may be labeled or marketed. If a the manufacturer or importer’s first unidirectional digital cable product is not a television, then that manufacturer or importer’s first model of a unidirectional digital cable product which is a television shall be tested pursuant to this subsection as though it were the first unidirectional digital cable product.

(2) A qualified test facility is a facility-testing laboratory representing cable television system operators serving a majority of the cable television subscribers in the United States or an appropriately qualified independent laboratory with adequate equipment and competent personnel knowledgeable with respect to the standards referenced in paragraph (b) of this section concerning the procedures set forth in Uni-Dir-PICS-I01-030903: “Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma”

(incorporated by reference, see § 15.38) and with Uni-Dir-ATP-I02-040225: “Uni-Directional Receiving Device Acceptance Test Plan,” 2004, (incorporated by reference, see § 15.38). For any independent testing laboratory to be qualified hereunder such laboratory must ensure that all its decisions are impartial and have a documented structure which safeguards impartiality of the operations of the testing laboratory. In addition, any independent testing laboratory qualified hereunder must not supply or design products of the type it tests, nor provide any other products or services that could compromise confidentiality, objectivity or impartiality of the testing laboratory’s testing process and decisions.

(3) Subsequent to the testing of its initial unidirectional digital cable product model, a manufacturer or importer is not required to have other models of unidirectional digital cable products tested at a qualified test facility for compliance with the procedures of Uni-Dir-PICS-I01-030903: “Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma” (incorporated by reference, see § 15.38) unless the first model tested was not a television, in which event the first television shall be tested as provided in § 15.123(c)(1). However, ~~†~~The manufacturer or importer shall ensure that all subsequent models of unidirectional digital cable products comply with the procedures in the Uni-Dir-PICS-I01-030903: “Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma” (incorporated by reference, see § 15.38) and all other applicable rules and standards. The manufacturer or importer shall maintain records indicating such compliance in accordance with the verification procedure requirements in part 2, subpart J of this chapter. The manufacturer or importer shall further submit documentation verifying compliance with the procedures in the Uni-Dir-PICS-I01-030903: “Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma” (incorporated by reference, see § 15.38) to a ~~facility~~ the testing laboratory representing cable television system operators serving a majority of the cable television subscribers in the United States.

(4) Unidirectional digital cable product models must be tested for compliance with Uni-Dir-PICS-I01-030903: “Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma” (incorporated by reference, see § 15.38) in accordance with Uni-Dir-ATP-I02-040225: “Uni-Directional Receiving Device Acceptance Test Plan,” 2004, (incorporated by reference, see § 15.38) or an equivalent test procedure that produces identical pass/fail test results. In the event of any dispute over the applicable results under an equivalent test procedure, the results under Uni-Dir-ATP-I02-040225: “Uni-Directional Receiving Device Acceptance Test Plan,” 2004 shall govern.

## Exhibit B

### Agreement Concerning Equivalent ATPs February 20, 2004

#### Background

Cable Television Laboratories, Inc. ("CableLabs") provides independent Verification testing of digital TVs (DTVs) having a CableCARD interface that are built to conform to the requirements of Unidirectional Digital Cable Products (UDCPs) as defined in the FCC Rules for unidirectional "Plug & Play" products. The testing provided verifies that a product successfully passes each of the PICS identified in the Joint Test Suite Conformance Checklist: PICS Proforma for UDCPs ("PICS"). Testing is performed in accordance with the Acceptance Test Plan posted at [www.cablelabs.com/udcp](http://www.cablelabs.com/udcp) ("ATP") and the procedures set forth in Test Guidelines for Unidirectional Digital Cable Products. The PICS and ATP collectively are known as the Joint Test Suite ("JTS"). "Verified" means that the UDCP Verification Panel has determined that the model submitted satisfies the JTS.

Verification testing may also be offered by an appropriately qualified independent laboratory. Once a Manufacturer has successfully completed Verification for one UDCP DTV product, subsequent UDCP models may be Self-Verified according to applicable procedures.

The Memorandum of Understanding and proposed Technical Regulations submitted by the cable and CE industries to the FCC on December 19, 2002, provided that Verification by an independent lab and Self-Verification by a previously Verified Manufacturer would be governed by the "Test Suite," defined as "the set of tests jointly developed and mutually agreed by CableLabs and CEA." A variation on this formulation was adopted by the FCC, which is presently the subject of a Petition for Reconsideration filed by NCTA.

Manufacturers have expressed an interest in testing products against the PICS using a test plan that differs from the ATP. In some cases, it is contemplated that the test plan will utilize equipment or procedures that may be proprietary. The cable parties to the Memorandum of Understanding have expressed the view that the ATP jointly developed and mutually agreed by CableLabs and CEA should be the ATP used in all locations, and that it should evolve through consultation and mutual agreement.

In order to resolve this disagreement, the parties have reached an understanding that combines private agreements with agreements to support changes to the FCC rules, in order to assure that equivalent testing arrangements are followed by CableLabs or an independent lab for Verification testing, and by all interested manufacturers during Self-Verification.

## Agreement

Therefore, the undersigned agree that:

1. With respect to each Manufacturer who agrees below, testing for conformity to the PICS may also be performed with an Equivalent ATP, which is an alternative testing procedure that meets the following conditions.
  - a. The Equivalent ATP must produce identical pass/fail results for each of the PICS as are produced under the ATP
  - b. Any UDCP that has been Verified or Self-Verified by an Equivalent ATP must be so noted in the submission form provided to CableLabs.
  - c. In the event of any dispute over the applicable results under an Equivalent ATP, the results under the ATP shall govern. Any UDCP that has been Verified or Self-Verified by an Equivalent ATP but fails to successfully pass each of the PICS identified in the Joint Test Suite Conformance Checklist: PICS Proforma for UDCPs when Testing is performed in accordance with the ATP posted at [www.cablelabs.com/udcp](http://www.cablelabs.com/udcp) at the time of Verification or Self-Verification may be treated by CableLabs and a Cable Operator as if it is a Unidirectional Digital Cable Product which is not Compliant at the time of manufacture, which is in breach under Section 2.2 of the DFAST Technology License Agreement for Unidirectional Digital Cable Products, which is not authorized to include end-entity digital certificates, and for which a Cable Operator may withdraw support and seek injunctive relief against further sales.
  - d. A party which plans to utilize an Equivalent ATP may, but is not required to, request consultation with CableLabs to seek its advice concerning the Equivalent ATP. CableLabs may, but is not required to, provide such advice. Where necessary to protection of trade secrets and confidential information, such consultation may be under non-disclosure agreement with CableLabs.
  - e. CableLabs shall have the right to audit, upon five (5) business days notice, or such earlier time as may be reasonable and required due to special circumstances, the implementation of Equivalent ATPs used for Verifying or Self-Verifying UDCPs that are available in the market, at the location utilizing the Equivalent ATP on an ongoing basis, at reasonable times as agreed between Manufacturer and CableLabs. This audit may be subject to a mutually agreed upon reasonable non-disclosure agreement if such agreement is requested and agreed upon prior to use of an Equivalent ATP for Verification or Self-Verification. Should Manufacturer prefer that such review be conducted by a third-party auditor, Manufacturer and CableLabs may agree upon one or more acceptable third-party auditors and a reasonable non-disclosure agreement, prior to use of an Equivalent ATP for Verification or Self-Verification.
2. Manufacturer will support the companion Agreement Concerning Equivalent ATPs between CEA and CableLabs, attached hereto.
3. This agreement will become effective as to each Manufacturer only if CableLabs obtains written agreement and consent from that Manufacturer prior to completion of the testing at CableLabs of a first UDCP product. Written agreement is indicated by signature and return of this document to:

Cable Television Laboratories, Inc.  
858 Coal Creek Circle  
Louisville, Colorado 80027  
Attn: Director of UDCP Verification  
Phone: 303-661-9100  
Fax: 303-661-9199  
A copy should also be emailed to: [opencable\\_cert@cablelabs.com](mailto:opencable_cert@cablelabs.com)

Cable Television Laboratories, Inc.

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We agree:

**Manufacturer:** \_\_\_\_\_

Corporate Officer: _____ Title: _____ Phone: _____ Fax: _____ E-Mail: _____ Address: _____ _____ <b>Signature:</b> _____ Date: _____
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Exhibit C

**Amendments to ATP (Uni-Dir-ATP-I01-040123)**

1. The second paragraph of Section 1.1 Purpose and Scope, shall be modified to insert after the second sentence: "In the alternative, Equivalent ATPs that produce identical pass/fail results for each of the PICS as are produced under the ATP procedures contained herein may used in accordance with, and upon execution of, the Agreement Concerning Equivalent ATPs dated February 20, 2004; or in accordance with the rules of the Federal Communications Commission, at such time as they are amended as described in that Agreement."
2. The "Notice" on the cover page shall be replaced with the following:

Neither CableLabs nor any member company is responsible to any party for any liability of any nature whatsoever resulting from or arising out of use or reliance upon this document, or any document referenced herein. This document is furnished on an "AS IS" basis and neither CableLabs nor its members provides any representation or warranty, express or implied, regarding the accuracy, completeness, noninfringement, or fitness for a particular purpose of this document, or any document referenced herein.
3. The ATP as amended shall be reissued as Uni-Dir-ATP-I02-040225, and the document status shall be changed from "Work in Progress" to "Released."