

electronics manufacturers, the information technology industry and, most importantly, consumers. Thomson also is pleased to report to the Commission its intention that all of the 2004 models of Thomson's fully integrated RCA HDTV receivers, which will be available in July 2004, will detect the Broadcast Flag, a full year ahead of the Commission's requirement.

I. STATEMENT OF INTEREST

Thomson is the leading provider of technology and service solutions for integrated entertainment and media companies. By capitalizing on and expanding its leadership positions at the intersection of entertainment, media and technology, Thomson provides end-to-end solutions to content creators, video network operators and manufacturers and retailers through its Technicolor, Grass Valley, THOMSON and RCA brands.

With its leadership position in RCA television products, its extensive professional broadcast and network products division, and as the world's largest replicator of movies on DVD and VHS tape, Thomson serves a diverse array of customers, including content owners (such as Disney, Warner Bros., Fox and Universal), leading retail distributors such as RadioShack, Circuit City, Best Buy and Wal-Mart, and, of course, millions of American consumers.

As one of the largest employers in the entertainment industry, Thomson's reach spans the United States, with thousands of employees in more than two dozen different communities. Its biggest concentration of employees live and work near Indianapolis, Indiana, and just outside of Hollywood, California.

Thus, Thomson has a unique position in both the content and consumer electronics industries: by helping the creative community reach the public through Technicolor's trusted film and video services; and by designing and selling new and innovative electronics products that showcase the wonders of digital technology to both entertain and inform millions of people.

II. IF THE COMMISSION APPROVES A CONTENT PROTECTION TECHNOLOGY UNDER THE BROADCAST FLAG REGULATIONS, THERE SHOULD BE A PRESUMPTION IN FAVOR OF APPROVAL BY CABLELABS UNDER THE DFAST LICENSE

The Commission, in the *Broadcast Flag FNPRM*, has sought comment on whether a unified regime should be employed concerning the approval of new content protection and recording technologies in both the Broadcast Flag and Plug and Play contexts.³ While Thomson does not support a unitary regulatory regime to govern both the Broadcast Flag and Plug and Play regulations because the two proceedings are inherently different in their origins and purposes, Thomson recognizes that various digital content protection technologies will be submitted both to the Commission for approval for Broadcast Flag purposes and to CableLabs for approval under the Plug and Play regime.

In such circumstances, Thomson believes that Commission approval of digital content protection technologies under the Broadcast Flag regulations also should be presumptively binding upon CableLabs when approving the same digital content protection technologies under the Plug and Play regime. Thomson recognizes that CableLabs also will consider copy control functions of the technology that are not implicated by the Broadcast Flag, and there may be grounds for rejecting a Commission-approved technology because of reasons that are irrelevant to the Broadcast Flag. That is why Thomson suggests only a presumption in favor of approval rather than Commission approval being conclusive on CableLabs. Therefore, if the Commission were to approve digital content protection technology under the Broadcast Flag regulations, then CableLabs generally should also approve that technology under the Plug and Play regime. If CableLabs were to reject a digital content protection technology that the Commission has

³ See *Broadcast Flag FNPRM* at ¶ 61.

approved for use with the Broadcast Flag, CableLabs should be required to bear a very heavy burden of justifying why the digital content protection technology that was approved by the Commission in the Broadcast Flag context should not also be approved under the DFAST license. The Commission's review of digital content protection technologies is broad, encompassing both technical considerations and public policy considerations, such as consumer use and enjoyment and reasonable and nondiscriminatory licensing terms. Thus, Commission approval embodies a public policy determination which CableLabs should not be free to disregard absent compelling justification.

III. CONCLUSION

Thomson applauds the Commission's continuing efforts to implement the Broadcast Flag, and urges the Commission to take the necessary actions to establish that its approval of a digital content protection technology under the Broadcast Flag rules is presumptively binding on CableLabs for purposes of approving digital content protection technologies under the Plug and Play regime.

Respectfully submitted,

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