

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

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

**REPLY COMMENTS OF PUBLIC KNOWLEDGE AND CONSUMERS UNION**

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**REPLY COMMENTS OF PUBLIC KNOWLEDGE AND CONSUMERS UNION**

Public Knowledge and Consumers Union (hereafter “Consumer Groups”) hereby submit these comments in connection with the Commission’s *Second Further Notice of Proposed Rulemaking*, FCC No. 03-225 (released October 9, 2003) (“*SFNPRM*”) in the above-captioned proceeding.

**INTRODUCTION AND SUMMARY**

The Commission is at a crossroads in both the plug-and-play proceeding and the broadcast-flag proceeding. The question now before the Commission in both proceedings is the extent to which content companies and content-delivery services can leverage the Commission’s goals of promoting digital television, cable compatibility, and competition in the navigation-device market into sweeping regulations whose principal

effect is not to serve these goals, or even to prevent piracy of digital television. Instead, its the real purpose of these proposals is to restore to content companies, to the extent possible, the degree of control over video they exercised prior to the invention of the videocassette recorder.

The Commission must resist the thinly disguised “mission creep” underlying these proposals for more broadly sweeping regulatory control over device interfaces. Further, it must resist efforts, cloaked in concern about compatibility, incentives, and digital piracy, that would “lock down” consumer uses of commercial content and limite those uses even more than they are limited today. The Commission should also take note of the inherently incoherent and unsupported arguments favoring “downrezzing” as a copy-protection mechanism and of the related argument favoring the “retirement” of analog connectors; the consumer market is a better arbiter of what kinds of connectors should be favored.

Finally, as discussed in Sections IV and V of this filing, the Consumer Groups believe the Commission must approach the issues of certification of protection technologies, licensing of such technologies, and revocation of such technologies in a manner designed to minimize the degree to which the administration of these three processes may distort the marketplace or may unduly favor one competitor or stakeholder group over others.

**I. THE COMMISSION MUST NOT YIELD TO “MISSION CREEP” IN THE PLUG-AND-PLAY PROCEEDING.**

As we have noted in the broadcast-flag Reply Comments we are also filing today,<sup>1</sup> the Commission is being asked by a number of parties to subject its broadcast-

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<sup>1</sup> Reply Comments of Public Knowledge and Consumers Union, MB Docket No. 02-230, (Mar. 15, 2004).

flag regulation and plug-and-play regulations<sup>2</sup> to what is known in military and foreign-policy circles as “mission creep.” That is, the Commission is being asked to stretch its commitment and presence far beyond its original goals of promoting the digital-television transition and promoting competition and compatibility in the digital-cable arena to whole new areas of digital and analog copy protection. If the Commission yields to these urgings, there will never be any “end game”; the Commission will have essentially taken over the process by which the information-technology and consumer-electronics sectors’ devise copy-protection technologies for the digital and analog worlds, and will have usurped these industries’ prerogative to experiment with new copy-protection technologies and business models in the marketplace. Such a broad expansion of the Commission’s authority is inconsistent with the Commission’s deliberate policies of attempting to keep its rulemaking in these arenas as narrow as possible, of avoiding any interference with existing copyright law, and of allowing marketplace dynamics, which are “superior to [any] regulatory approach,”<sup>3</sup> to operate in the area of digital-content protection. To the extent that we favor any further regulatory intervention at all, the Consumer Groups do so in order to minimize the marketplace distortions and deleterious impact on consumers that the original broadcast-flag and plug-and-play regulations will introduce.

## **II. THE COMMISSION MUST RESIST THE CALLS TO “LOCK DOWN CONSUMER USES OF COMMERCIAL CONTENT.”**

We are now more than two decades into the era of increased flexibility of consumer use enjoyment of television and other visual media that was ushered in by the

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

3 In the matter of Compatibility Between Cable Systems and Consumer Electronics Equipment, Notice of Proposed Rulemaking, PP Docket No. 00-67 (rel. April 14, 2000).

invention of the consumer videocassette recorder (VCR) and by the Supreme Court's decision in *Sony Corp. v. Universal Studios*.<sup>4</sup> Consumers have generally grown to expect the kinds of flexibility of use offered by the VCR and by its progeny such as the personal video recorder (PVR). They have further come to expect an increasing degree of use of the video content they receive, thanks to technological advances in the consumer-electronics and information-technology sectors. These expectations are not unreasonable; indeed, the *Sony* case makes clear that such expectations are consistent with the balance of rights and obligations in our copyright law — a set of rights and obligations the Commission has said it does not wish to alter.<sup>5</sup>

What is at issue in this *SFNPRM*, as well as in the broadcast-flag proceeding, is the effort by some content stakeholders to use the transition to digital television, as well as the Commission's involvement in cable-compatibility and navigation-device competition proceedings, as an opportunity to roll back the impact of the Supreme Court's decision in *Sony*. This conclusion is a necessary inference drawn from the ever-shifting arguments offered by content stakeholders about the need for a broadcast-flag regime<sup>6</sup> and from their inconsistent arguments regarding the need for still more Commission intervention (both in the broadcast-flag and in the plug-and-play

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4 464 U.S. 417, 104 S. Ct. 774, 78 L.Ed. 2d 574 (1984)

5 In the Matter of Digital Broadcast Content Protection, Report and Order and Further Notice of Proposed Rulemaking, at ¶9 MP Docket 02-230 (Nov. 4, 2003).

6 Initially, for example, the Motion Picture Association of America argued that digital television files already can be sent “instantaneously” to millions of individuals around the world via the Internet. After the Consumer Groups and others demonstrated the falsity of this claim, the MPAA began to argue that while full-resolution digital television may not be pirated to any great degree today, it someday will be. Joint Comments of the Motion Picture Association, Inc., *et al.* at 7, MB Docket No. 02-230, (Dec. 6, 2002); Joint Reply Comments of the Motion Picture Association, Inc., *et al.* at 11, MB Docket No. 02-230, (Feb. 20, 2003); “Trends – Download an HD Movie in 5 Minutes!” Motion Picture Association of America, Inc., MB Docket No. 02-230, (May 5, 2003). Similarly, Time Warner and other parties to the broadcast-flag comments originally argued that Commission action was necessary because digital-television files were uniquely copyable; Time Warner's current call for action to prevent copying of content via the “analog hole” is, technologically speaking, in contradiction to this original claims. Comments of Time Warner, MB Docket 02-230, (Feb. 13, 2004).

proceedings), including intervention regarding “down-resolution” (“downrezzing”) and analog connectors.

It is unclear how any of these arguments offered in favor of expanding Commission control over business models and connectors will aid in the transition to digital television, incrementally or otherwise. It is further unclear how efforts to reduce the quality of analog connector outputs, or to encourage their eventual “retirement,” will promote the device interoperability that have been goals of the Commission in this proceeding.<sup>7</sup>

***What is clear is that, if the Commission continues to grant these entreaties, it will effectively have set itself up as the gatekeeper over transmission of content over all connection technologies, digital or analog.*** The Commission will find itself determining what any and every connection technology is allowed to transmit, and effectively exerting control over all the existing ways that consumers legally use television content as well as all the new legitimate ways in which consumers might someday use it. If the Commission yields to the temptation to architect all connection technologies and all possible consumer uses, it will have moved far beyond its original goals in this docket, which include promoting compatibility among cable devices and competition in the market of navigation devices.

We have concluded from reading the full range of submissions in the broadcast-flag and plug-and-play proceedings that full regulatory control over all the ways consumers use content is precisely what certain content holders want. We believe also that, had such regulatory control had been in place in the 1970s, devices such as the

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<sup>7</sup> The question of whether it is appropriate for the Commission to impose regulations that would diminish the quality of analog connectors or even promote the eventual abandonment of analog connectors is dealt with at length in Section III, *infra*.

VCR, the TiVo personal-video recorder, and Windows-based “media PCs” would have been drastically hindered on their way to market — if allowed to come to market at all. Approval processes take time, as the Commission knows, and innovative new uses of content are often controversial at first, as the *Sony* case makes clear.

We understand, of course, that the Commission has sought to leave open the door to development of new business models for delivery of television content. We do not believe, however, the Commission or any other party can predict with certainty whether lawful connection technologies, such as analog connectors, that are currently in use will necessarily diminish over time. Moreover, to the extent that the Commission favors marketplace dynamics, which are “superior to any regulatory approach,”<sup>8</sup> it will forbear from attempting to discourage the world from using a time-tested connection technology that already is implemented in virtually all home-entertainment systems used by American citizens today.

**III. CALLS FOR CLOSURE OF “THE ANALOG HOLE” ARE INCONSISTENT WITH THE UNDERLYING RATIONALES FOR THIS PROCEEDING AND WITH THOSE FOR THE BROADCAST FLAG PROCEEDING.**

The original policy rationales for Commission action in the instant plug-and-play proceeding included promotion of cable-compatibility standards and the promotion of competition in the navigation-device market; the original rationale of the “digital broadcast content protection” proceeding (originally the “digital broadcast copy protection” proceeding) was that digital content is uniquely subject to copying. It is difficult to see how the calls by Time Warner and other parties to this proceeding<sup>9</sup> for

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<sup>8</sup> In the matter of Compatibility Between Cable Systems and Consumer Electronics Equipment, Notice of Proposed Rulemaking, PP Docket No. 00-67 (rel. April 14, 2000).

<sup>9</sup> See Comments of Time Warner, at 7 CS Docket No. 97-80, PP Docket No. 00-67, MB Docket 02-230, (Feb. 13, 2004).

permission to engage in “down-resolution” (a.k.a. “downrezzing” or “constraining the image”) of any content transmitted over analog outputs fits into this rationale.

The Commission will recall that the Consumer Groups argued in our earlier filings in the broadcast-flag and plug-and-play proceedings that digital content is no more subject to copying than analog content—that conversions between analog media forms and digital forms are trivial.<sup>10</sup> Nevertheless, the Commission concluded in its Broadcast-Flag Report and Order<sup>11</sup> that digital content is more copyable and justified its action in this arena on that conclusion.<sup>12</sup> Consistent with that conclusion, and consistent with the Commission’s goal in this proceeding of promoting compatibility among devices, the Commission has chosen heretofore to forbear ordering any copy-protection technology for analog outputs. Even though we continue to disagree with the technological conclusions behind Commission’s forbearance in the matter of analog interfaces, we nonetheless believe the Commission was correct to forbear.

It is in light of this forbearance that, in response to the arguments of Time Warner and others., we extend our original arguments against against “downrezzing” any television content and against any policy of attempting to “retire” analog interfaces.

**A. The arguments for imposing copy protection on analog outputs are largely inconsistent with early claims about the threat supposedly posed by “piracy” of digital television.**

To fully appreciate the self-contradiction in the arguments that the Commission should allow “downrezzing” of TV content in order to close the so-called “analog hole,” we may focus here on characteristic arguments offered in favor of such a policy. Time

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10 See Comments of Public Knowledge and Consumers Union at 6, MB Docket No. 02-230 (Dec. 6, 2002).

11 In the Matter of Digital Broadcast Content Protection, Report and Order and Further Notice of Proposed Rulemaking, at ¶4, MP Docket 02-230 (Nov. 4, 2003).

12 The Consumer Groups note in passing that this conclusion does not seem to be based on any evidentiary showing that digitally originating content is more copyable than is content in analog forms.

Warner, for example, characterizes the need for downrezzing in terms of the “the depth and scope of the security concerns for content owners [that] have expanded exponentially, due to the ease with which digital content can be replicated...”<sup>13</sup> In its filing in this proceeding and in the broadcast-flag proceeding, Time Warner now argues, inconsistently, not only that digital broadcast content is particularly vulnerable to copying but also that analog outputs must be made to incorporate copy protection schemes because unprotected analog outputs are a significant threat to televised content and, ultimately, that analog connections must therefore be discouraged by the Commission.

It is important to point out, however, that the output from analog outputs is not digital content—it is analog content. As such, it categorically falls outside of Time Warner’s generalizations about the extent to which “digital broadcast content is particularly vulnerable to copying.” *We may infer, therefore, that what troubles Time Warner and other content companies has nothing at all to do with the fact that digital television content originates in a digital format, and has everything to do with the fact that computers and other consumer devices already enable consumers to capture analog output and reduce it to a digital format.*

Even if we were to accept that the content companies have reason to worry about the fact that computers and other consumer devices already routinely enable consumers to capture and duplicate both analog content and digital content, such a worry is well outside the scope of the Commission’s policies as already expressed in this proceeding (*i.e.*, to promote compatibility and competition) or the policy underlying the Broadcast-Flag proceeding (to promote the transition to digital television broadcasting). The

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<sup>13</sup> See Comments of Time Warner, at 2.

Commission has no general authority to regulate analog connectors simply because they enable consumers to capture or copy content.

Moreover, if we assume, *arguendo*, that Time Warner's assessment of the threat posed by analog outputs is accurate, then a central assumption on which these proceedings have been based — that digital content is more subject to piracy — is called into question. Time Warner's entreaties for analog-interface regulation suggest that analog content is essentially no different in vulnerability from digital content, which means that there is no problem associated with the capture and distribution of digital content that does not already exist with regard to analog content. In other words, if what Time Warner says about analog outputs is true, there is no basis in fact for the notion that digital television requires copy protection any more than there is for the notion that analog television does. The Commission is therefore left with a dilemma. It must choose either to:

- Accept the argument about the threat posed by the "analog hole" and in doing so abandon any claim that its regulations in this arena have anything to do either with the promotion of the DTV transition or with the promotion of compatibility and competition, or
- Adhere to its original finding that television content in digital form is unusually subject to unauthorized copying, and that therefore the Commission's focus in this proceeding must be on digital content protection and not on analog copy protection,

The Commission is in a more tenable position, in terms both of jurisdiction and of expertise, if it steers clear of becoming a general arbiter of both analog and digital copy-protection technologies. This is true not only because the Commission has no authority

from Congress to engage in such a general mission, and not only because doing so might bring the Commission into conflict with the Copyright Office's jurisdiction, but for two other reasons as well. First, analog interfaces, by providing citizens with a way of excerpting televised content for educational, scholarly, or other purposes, may serve citizens' fair use rights under the Copyright Act. Second, and perhaps more important in light of the policies underlying this proceeding, analog interfaces provide for both greater compatibility among consumer devices and for greater competition among navigation devices. Both these goals are served by allowing analog connectivity as an option, not only as a way of enabling connectivity to legacy devices such as certain HDTV television sets, but also by giving consumers greater choices in connecting a mix of current devices to their home entertainment systems.<sup>14</sup>

A review of the high-end HDTV sets available at the Best Buy and Circuit City websites suggests that consumer-electronics manufacturers are not abandoning analog connectivity in order to add digital connectors; instead they are choosing simply to add digital connectors and allowing consumers choose to use whichever digital or analog connectors they prefer.<sup>15</sup> They do so partly because component analog interfaces may be deemed by some viewers to be perfectly adequate for HDTV displays, and partly because analog interfaces provide additional connectivity choices. This latter consideration cannot be overemphasized in a proceeding whose purpose is to promote compatibility and competition.

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<sup>14</sup> Despite implications by some content companies that analog connectivity is on its way out, the fact is that many consumers prefer to have the option of using component analog interfaces for their high-quality television displays. *See* Home Recording Rights Coalition Ex Parte Communication in CS Docket No. 97-80 (Commercial Availability of Navigation Devices); PP Docket No. 00-67 (Compatibility Between Cable Systems and Consumer Electronics Equipment) at 1, (Sept. 3, 2003).

<sup>15</sup> See the Best Buy website at <<http://www.bestbuy.com>> and the Circuit City website at <<http://www.circuitcity.com>>.

**B. The arguments for “downrezzing” content as a means of protecting so-called “high-quality” are self-evidently inconsistent, bad policy with regard to promoting the adoption of digital television, and facilitate rather than inhibit copyright infringement of digital television.**

We remind the Commission of the Consumer Groups’ longstanding argument that, assuming that of the rationale for promoting digital television is to give consumers higher-quality television experiences , and assuming that “downrezzing” content actually leads to reduction of quality, then any measure that results in reduction in DTV quality will undermine consumer adoption of DTV equipment because such equipment can’t be integrated into their existing home entertainment systems without resulting, at least with regard to some programming, in something less than full-quality display of the content.

An open question remains, however, whether “downrezzing” of television quality truly does in reduction of video quality. Time Warner assures the Commission that “downrezzing” of television content provides “some protection when the content is delivered via unprotected high definition outputs, but not perceptibly affecting the viewer’s experience.”<sup>16</sup> This argument gives rise to a mystery: if digital-television piracy is a problem, why should DTV pirates care about “downrezzed” content if the quality for the viewer of the “downrezzed copy” is only imperceptibly different?

The answer to this question, to the extent that it can be teased out of the “downrezzing” proponents’ filings, seems to have something to do with a claim that certain current digital displays do not fully “resolve” high-definition content.<sup>17</sup> Even if that claim is true of all current HDTV diplays—and no evidence has been submitted in support of it — *it scarcely makes sense for the Commission to allow for “downrezzing”*

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<sup>16</sup> See Comments of Time Warner at 9.

<sup>17</sup> See *id* at 9, arguing that image constraint is “consistent with the full capabilities of most current digital displays, but less than full HD quality. See also Comments of the Motion Picture Association of America, *et al* at 6, arguing that “current 1080i displays cannot fully resolve a 1080i signal.”

*because of the likely features of new displays, since presumably pirates will offer illegal content to users of old displays as well as owners of new ones.* No evidence has been submitted to suggest what degree of digital television piracy will be prevented by a measure that is evident on future kinds of HD display technology but “imperceptible” on today’s. Nor has any evidence been offered as to the degree to which the HD quality on new displays will be better than current displays. Five percent better? Ten percent? Will this difference in display quality result in twenty percent more piracy? Fifty percent? The only conclusion one can draw from these vaporous arguments, unsupported by evidence in the record, is that the real purpose of “downrezzing” is to promote the abandonment of component analog outputs by consumers and consumer-electronics manufacturers. This is not because any significant piracy threat is associated with component-analog outputs in full HD resolution<sup>18</sup>, but because the content industries prefer digital interfaces over which they can exert more control. Such a preference, which furthers the scope of the limited copyright monopoly Congress has granted to copyright holders, is in no way required by the Commission policies that are the underpinning of this proceeding.

Furthermore, not only is it beyond the scope of this proceeding to impose “downrezzing” on analog connectors, but it is also bad policy. Analog connectors are ubiquitous in consumer devices, and, as we have noted in IV(a), *supra*, there is no sign that analog connectors are being abandoned either by consumers or by consumer-device makers, either in the short term or over time. Thus, it seems certain that analog

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18 In our own research on the question of the extent to which high-definition television content is distributed via file-sharing on the Internet, the Consumer Groups have come across instances in which content that apparently originated as high-resolution TV content was being offered for download. In every single instance of the availability of such content, however, the HDTV content had been reduced in resolution, either by the person who had captured it in a digital file or by the person offering it for download. Furthermore, in every single case the reduced-resolution file had a top-to-bottom resolution of about 360 pixels, 25 percent less than the top-to-bottom resolution of standard-definition television.

connectors are going to be a primary means of integrating new DTV equipment and other platforms into existing home-entertainment systems for the foreseeable future, absent some regulatory measure that notably reduces the quality of high-definition outputs for HDTV. Commission regulation (or forbearance from regulation) should be designed to enable such integration rather than to inhibit it, since the option of analog connections will promote the DTV transition as well as device compatibility in the cable and satellite arenas. Just as important, the Commission should forbear from putting itself in the position of allowing anyone to degrade television quality under any circumstances.

Finally, we observe that, to the extent that “downrezzing” of television content results in digital content that is smaller in file size, such "constrained" content is more easily piratable than content in HDTV’s delivery format. To the extent that "downrezzing" leads to reduced-size files whose lower quality may affect "the viewer's experience" only "imperceptibly," a Commission regulation that allowed “downrezzing” or that actively promoted this measure as a content-protection technology would likely increase online piracy of high-value content rather than reduce it.<sup>19</sup>

**IV. THE COMMISSION SHOULD SUPPORT SELF-CERTIFICATION OF DTV PROTECTION TECHNOLOGIES TO THE EXTENT POSSIBLE, OR IN THE ALTERNATIVE, ALLOW CERTIFICATION OF SUCH PROTECTION TECHNOLOGIES THROUGH A NEUTRAL INDEPENDENT BODY.**

The Consumer Groups agree generally with the arguments from the IT Industry in favor of self-certification of connection technologies according to neutral, functional

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<sup>19</sup> The Consumer Groups have heard anecdotally of approaches to reduce resolution of HDTV without reducing file size through the introduction of “dummy” pixels that add no video information to the file but that restore its size to that of the original HDTV file. We have not seen such a method implemented in any practical demonstration, but we note generally that such “dummy” pixels, when subjected to routine digital compression, are generally the first pixels to go, precisely because they do not contain critical information.

critical.<sup>20</sup> We believe the Commission can exercise a minimum degree of control over this process in a manner that emphasizes primarily enforcement rather than gatekeeping. Such an emphasis lowers the regulatory barriers to entry for new products and technologies.

Should the Commission determine that an independent body is needed, beyond the Commission's interim order in this proceeding, to certify content-protection technologies under the broadcast-flag scheme, we again argue that Cable Labs is not the proper locus for such certification, despite the National Cable & Telecommunications Association's claims regarding its expertise and objectivity. We make this argument partly because Cable Labs' close association with one particular set of stakeholders raises the strong possibility of conflicts of interest with regard to certification of technologies from other stakeholder sectors. Moreover, as we have noted, Cable Labs does not meet the normal criteria of standards bodies in that it is not an open, neutral venue for the creation of voluntary standards or for the certification of compliance with such standards. Should the Commission determine there is a need for such a certification body, we find the suggestion by Genesis Microchip, Inc. that the Commission delegate this task to one or more ANSI-accredited<sup>21</sup> or otherwise open standards-setting/certification bodies.

Furthermore, we agree with commenters who suggest that revocation of protection technologies should occur only when an independent review body (either the Commission or a delegated body that meets the standards-setting-body criteria we discuss in the preceding paragraph) has made a determination that the technology is seriously compromised, and further determines that the balance of costs to consumers, costs to the

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<sup>20</sup> *E.g.*, Comments of the IT Coalition, MB Docket 02-230, (Feb 13, 2003).

<sup>21</sup> The American National Standards Institute (ANSI) is a private, non-profit organization (501(c)(3) that administers and coordinates the U.S. voluntary standardization and conformity assessment system. Extensive information about ANSI's operation and activities can be found at <<http://www.ansi.org>>.

content owners, and costs to other stakeholders indicate that revocation is the most equitable solution to the problem posed by the compromised technology.

**V. THE COMMISSION SHOULD STRUCTURE AND SUPERVISE THE FRAMEWORK FOR APPROVAL OF CONTENT-PROTECTION TECHNOLOGIES, FOR THE LICENSING OF SUCH TECHNOLOGIES, AND FOR THEIR REVOCATION IN SUCH A WAY AS TO MINIMIZE MARKETPLACE DISTORTIONS.**

The Consumer Groups concur with the arguments of some commenters<sup>22</sup> and note further that that the framework of approval for content-protection technologies, as well as the licensing for such technologies on a reasonable and nondiscriminatory basis, must be structured and supervised by the Commission to prevent competitive distortions. We also necessarily must note that the Commission's decision to impose content protection as part of its cable-compatibility regime, with an attendant approval process and enforcement dimension, mean that the Commission has introduced the potential for marketplace distortions that it must now actively seek to minimize.

**VI. CONCLUSION**

The efforts of at least one set of stakeholders in both the plug-and-play and the broadcast-flag proceedings seem to be clearly aimed, not at compatibility, competition, or the transition to digital television, but at reversing the trend of increasingly flexible and powerful uses of copyrighted content, and in particular television content, by consumers. To make the matter plainer, we are witnessing a deliberate attempt to roll back the growth and flexibility of consumer uses of video content that has developed since the invention of the VCR and since the Supreme Court's now 20-year-old decision in the *Sony* case. In light of this larger strategy by content companies, the Commission must necessarily move cautiously when confronted by claims that digital TV content is at risk, or claims that the

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<sup>22</sup> See The Comments of the IT Coalition at 14, MB Docket No. 02-230 (Feb. 13, 2004).

transition to digital television requires yet one more regulation restricting what consumers can buy and do.

There is of course a strong risk that ill-considered Commission action to discourage analog interfaces in consumer devices, to allow content holders or their proxies to reduce the quality of visual content in a misconceived, self-contradictory effort to protect it, or to favor certain protection technologies over others, will result in marketplace distortions. It would be ironic if Commission action aimed at improving compatibility, increasing competition, and generally promoting the transition to digital television (however it is delivered) were to achieve the precise opposite of these aims. To avoid such an ironic outcome, we strongly suggest that the Commission cast its most critical eye on further requests for regulations that have little to do with the Commission's policies, and everything to do with enhancing content companies' abilities to lock down content in ways that they never has been able to do before.

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