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March 19, 2004

Ms. Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: *Ex Parte* Presentations in CS Docket No. 97-80 (Implementation of the Section 304 of the Telecommunications Act of 1996: Commercial availability of Navigation Devices); PP Docket No. 00-67 (Compatibility between Cable Systems and Consumer Electronics Equipment); and MB Docket No. 02-230 (Digital Broadcast Copy Protection)

Dear Ms. Dortch:

This is to notify the office of the Secretary that on March 18, 2004, Fritz Attaway and Brad Hunt of the Motion Picture Association of America, accompanied by Jon Baumgarten of Proskauer Rose LLP (representing MPAA), Anne Lucey and Paul Heimbach of Viacom Inc., Maureen O'Connell and Andy Setos of News Corp., Susan Fox of The Walt Disney Company, and Linda Bloss-Baum of Vivendi Universal held an ex parte meeting with the below listed FCC staff members.

Amy Nathan
William Johnson
Ken Ferree
Tom Horan
Susan Mort
Rick Chessen
Michael Lance
John Wong
Alan Stillwell
Alison Greenwald
Mary Beth Murphy
Daniele Jafari

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The meeting covered material presented in the attached PowerPoint presentation.

In accordance with Section 1.1206 of the Federal Communications Commission rules, this original and one copy are provided to your office. A copy of this notice is being delivered to the parties mentioned above.

Sincerely,

Enclosure

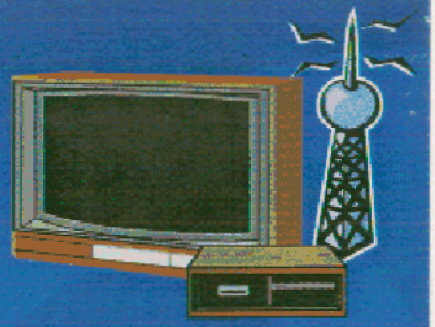
MPAA Views on Digital Broadcast Content Protection & Digital Cable Plug and Play Rulings

MPAA Ex Parte Meeting with FCC
March 18, 2004

by
Brad Hunt
Chief Technology Officer
Motion Picture Association

MOTION PICTURE ASSOCIATION OF AMERICA

Outline of Discussion Points



1) Localization - Scope of Redistribution Control

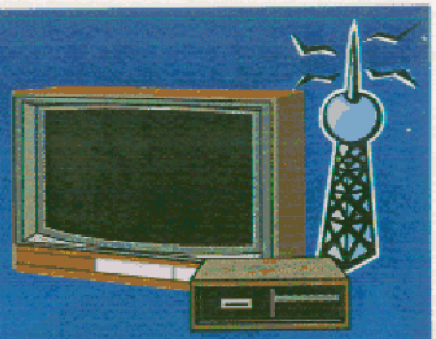
2) Broadcast Flag Robustness Rule

3) Encryption of the Digital Cable Basic Service Tier

4) Image Constraint Triggering by MVPDs

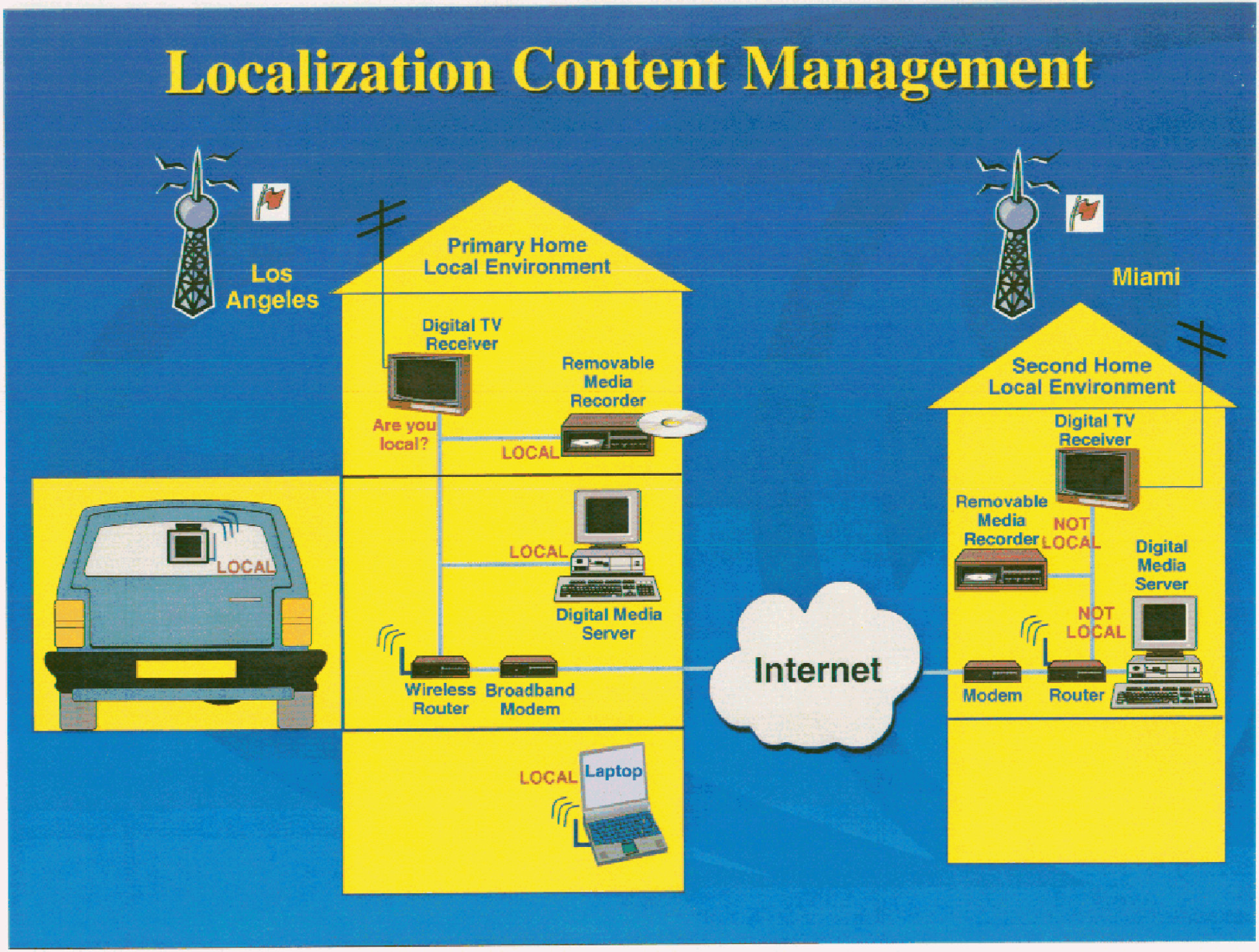
5) Selectable Output Control Incorporation & Use

Importance of Localization in Redistribution Control

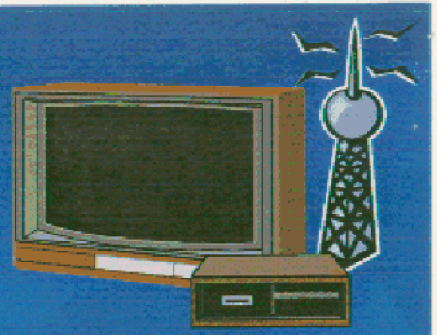


- Control over redistribution of broadcast content is necessary to preserve the commercial viability of free over-the-air TV versus the paid conditional access business models that can address individual households.
- In addition, control over redistribution of broadcast content is necessary to preserve the system of localism that is one of the Commission's most important policy goals.
- The Regulation's scope of prohibited redistribution must focus on the control of content to within the local environment of an individual user or household (Localization).

Localization Content Management

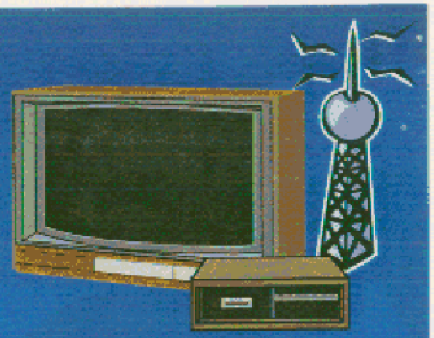


Marketplace Criteria will better achieve Localization



- Market-developed content protection technologies have always provided localization control.
- So long as innovation is not stifled, the marketplace can be counted on to provide improved localization control in the future.
- By contrast, defining specific functional criteria can cause problems from generality and can limit innovation due to fixed definitions.
- If the FCC nevertheless wishes to explore functional criteria, these criteria must include effective localization.

Broadcast Flag Robustness Rule



- The robustness rule adopted in the ruling establishes a weaker standard than commonly used in the marketplace for other protected content delivery systems.

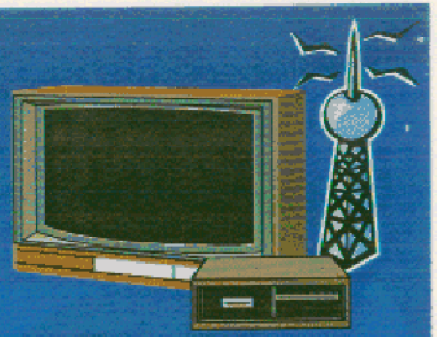
- The standard adopted in the BF robustness rule:

  "…Demodulator Compliance Requirements shall be implemented in a reasonable method so that they cannot be defeated or circumvented merely by an ordinary user using generally-available tools or equipment."

  does not address the threat of hacks easily created by expert users who widely proliferate their hacks over the Internet.

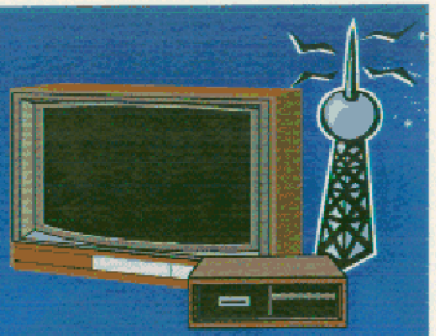
- To ensure the Commission's goals for the regulation are met, it should be revised to adopt the Jointly Proposed Robustness Rules that were carefully developed in the marketplace.

Encryption of the Digital Cable Basic Service Tier



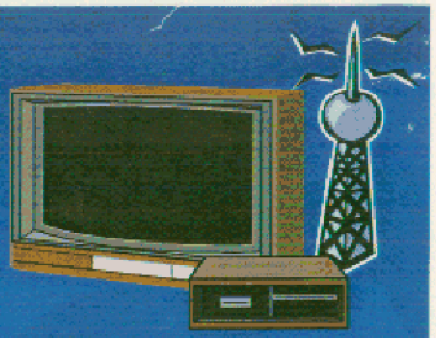
- Since encryption at the source is the best solution for protecting content, all future digital television modulation techniques should require encryption at the source.
- Allowing cable operators to encrypt their digital QAM basic tier services will afford protection for both DTV broadcasts as well as other non-broadcast basic tier programming.
- Legacy problems are minimal since the limited number of legacy digital receivers with in-the-clear QAM tuners are high-end models that consumers will typically connect to CableCARD set top boxes to receive premium services.
- The FCC should clarify its Rules to require cable operators to encrypt the digital cable basic service tier in order to securely signal when redistribution and copy control is or is not required for any form of basic tier programming.

Image Constraint Triggering by MVPDs



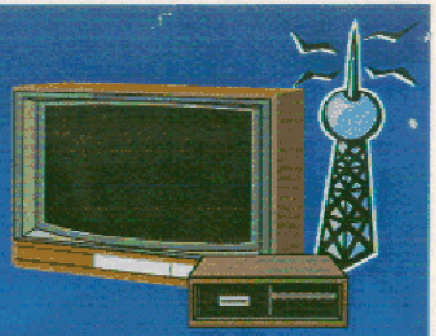
- Image constraint for unprotected HD analog outputs of non-broadcast content represents a reasonable step towards solving the Analog Hole.
- Image constraint triggering was negotiated in the marketplace and is currently being implemented without problems.
- The MPAA has conducted tests and public demonstrations of down-rezing that show it does not disadvantage early-adopters of legacy analog HDTV displays, which do not fully resolve 1080-line by 1920-pixel HDTV resolution.
- The FCC should allow market forces to balance MVPDs' elective use of image constraint on non-broadcast content with their need to insure content providers of adequate protection of their high-value HD content.

Selectable Output Control Incorporation & Use



- Under the Plug and Play regulation, the Commission acknowledged that selectable output control could be appropriate for use in the future.
- As suggested by the Commission, selectable output control might have applications advantageous to consumers such as facilitating new early-window business models.
- To make these permitted uses possible, the FCC Plug and Play ruling should be revised to require selectable output control capability in Digital Cable Ready devices for use under specific, well-defined circumstances.

MPAA Summary Points



- The scope of prohibited redistribution must focus on Localization, which is best achieved through the use of Marketplace Criteria.
- The Broadcast Flag Robustness Rule must be amended to reflect the carefully-defined, marketplace Robustness Rules.
- The FCC must clarify that cable operators can and must encrypt the digital basic tier.
- MVPDs should be allowed to trigger image constraint on non-broadcast programming to address the Analog Hole.
- FCC should require selectable output control capability in Digital Cable Ready devices in order to permit its use under specific, well-defined circumstances.