

DOW, LOHNES & ALBERTSON, PLLC

ATTORNEYS AT LAW

James M. Burger
Direct Dial 202-776-2300
jburger@dowlohnes.com

WASHINGTON, D.C.

FACSIMILE 202-776-4300

1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802
www.dowlohnes.com

July 28, 2004

BY ELECTRONIC FILING

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

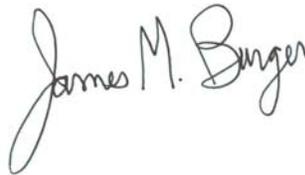
**Re: Notification of *Ex Parte* Communication
MB Docket No. 04-63**

Dear Ms. Dortch:

This is to advise you, in accordance with Section 1.1206 of the FCC's rules, that I transmitted the attached "TiVo Correction to MPAA" on Tuesday, July 27, 2004, to Susan Mort of the Media Bureau and discussed the content in a telephone conference with Ms. Mort.

As required by Section 1.1206(b), as modified by the policies applicable to electronic filings, one electronic copy of this letter is being submitted for the above-referenced docket.

Very truly yours,



James M. Burger

cc (by email): Jon Cody
Stacy Robinson Fuller
Johanna Miles Shelton
Catherine Crutcher Bohigian
Jordon Goldstein
Susan Mort



WAIVER OF TiVo'S TEN DEVICE LIMIT

TiVo's 10 unit secure viewing group has been in place since April 2003. No waivers have ever been granted and it is anticipated that only a very few subscribers will ever request a waiver.

Currently the limit is automatically enforced in two ways: (1) the "manage my account" registration process won't enable more than 10 devices; and (2) the key server has hard limit of 10 devices. Currently, 16 is the technical limit that the client can handle.

Any exception/waiver would require a manual process to override the automatic controls.

TiVo Commitments

First, TiVo will not change the absolute language in its subscriber agreement: "In addition, you may only transfer content among ten (10) DVRs on a single TiVo account..."

Second, TiVo will not advertise or publicly announce the availability of waivers, *i.e.*, subscribers will have to self-initiate any request.

Third, TiVo will commit to an absolute waiver limit of one-tenth of one percent of TiVo subscribers.

Waiver Process

As noted above, a subscriber would have to self-initiate any waiver process and TiVo would have to manually override its 10 device limitation.

A waiver will require a written request submitted on a form created by TiVo requiring the user to certify as to the accuracy of the information and require their signature.

Included in the waiver form would be a field for the subscriber to explain why a waiver would be required and where the devices will be located.

TiVo would exercise care and consistency in granting any waivers, and require the approval of the Director of System Operations. Currently, the only reason for a waiver would be that a consumer had more than ten devices in their primary home, or they had more than one residence with a total of more than ten devices in their residences. It would not, for example, be acceptable to have one device in each residence and a dozen devices

in other locations not controlled by the subscriber. Because TiVoToGo is meant to serve laptops as well, a reasonable number of mobile devices could be part of the secure viewing group, but the majority would have to be in located properties the individual owns or otherwise controls.

The waiver application would require the subscriber to reaffirm the provisions in the Subscriber Agreement requiring the subscriber not to violate copyright laws by reproducing, preparing derivative works, distributing, publicly performing or publicly displaying copyrighted works except to the extent permitted by the Copyright Act.

The waiver application would require the subscriber to reaffirm the provision to only use copyrighted content for personal, non-commercial purposes.

Misrepresentation of information certified on the form will be grounds for termination.