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Robert S. Schwartz
Attorney at Law
rschwartz@mwe.com
202.756.8081

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VIA ECFS

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

Re: *Ex Parte* Communication in CS Docket 97-80

Dear Ms. Dortch:

On November 30, 2004, Paula Boyd of Microsoft Corporation, John Godfrey of Pioneer North America, Adam Goldberg of Sharp Electronics, Julie Kearney and Brian Markwalter of the Consumer Electronics Association (CEA), James Morgan of Sony Electronics, and Mary Newcomer Williams, of Covington & Burling on behalf of Microsoft, all accompanied by the undersigned, on behalf of CEA, met with Steve Broeckert, Rick Chessen, Alison Greenwald, Tom Horan, Bill Johnson, Deborah Klein, Mary Beth Murphy, Natalie Roisman, and John Wong of the Media Bureau and with Jon Cody, Legal Advisor to Chairman Powell. All except Ms. Boyd also met with Stacy Robinson Fuller, Legal Advisor to Commissioner Abernathy, and with Elizabeth Andrion, Special Advisor to Commissioner Martin. The subject of the meeting was the Commission's existing regulation requiring common reliance of navigation devices on a separable security interface by July 1, 2006. The CEA delegation expressed the views as set forth on this issue in the *ex parte* letter of November 23, 2004, from Ms. Kearney to Marlene H. Dortch (attached).

In addition to the points made in the November 23 letter, the CEA delegation made the following points in response to FCC questions:

- MSO reliance on the same security interface made available for competitors will not merely ensure the operability of CableCARDS and headends with the MSO's set-top boxes, rather, it will enhance the testing and refinement devoted to, and the overall development and reliability of, the specification and the interface itself. Moreover, finding and fixing any interoperability problems that arise from CableCARDS and cable head end configurations will improve the interoperability of those CableCARDS and head ends with *all* attached Digital Cable Ready customer equipment—not merely the MSO's own set top boxes.

- When consumer confidence in the CableCARD interface hangs in the balance, so does a crucial element to the success of the DTV transition. As consumers, most of whom are cable subscribers, choose their next DTV display, they will be more willing to pay the premium for an integrated digital tuner if that tuner is Digital Cable Ready. Conversely, if consumers believe CableCARDS are unreliable, they may be motivated to buy monitors lacking a digital tuner on the assumption that they will use a cable operator-supplied set top box and therefore will not need the integrated tuner. This threat to the DTV transition will be eliminated when the cable operator's set top boxes also use CableCARDS. Only common investment in and reliance on separable security will assure the development of a competitive market for value-added consumer electronics products with integrated DTV tuners.
- Marginality also will keep the acquisition costs of CableCARDS higher than necessary, while their support and reliability remains lower than it should be. Only a better alignment of regulatory requirements and market incentives can bring these elements into balance.
- The existing rule does not foreclose the evolution of the technology enabling separable security. But the mere possibility that some nascent technology will eventually develop into a viable alternative to the CableCARD is no reason to postpone or eliminate the deadline for MSO reliance on the currently available separable security solution.
- The existing regulation will serve its intended purpose only if it is left undisturbed. No action by the Commission is necessary for this to occur. By contrast, any further pushback of the effective date would be tantamount to repeal of this regulation --- with its never having had any chance to serve the Commission's intended purpose. The marginality difficulties now attending the introduction of "single stream" CableCARDS would then be more likely to recur in the future context of "multistream" cards, which are vital to the operation of products competitive with the DVRs now being offered by cable operators.

This letter is being provided to your office in accordance with Section 1.1206 of the Federal Communications Commission rules. A copy of this letter has been delivered to the parties listed below.

Very truly yours,

Robert S. Schwartz

Robert S. Schwartz

cc:

Steve Broecker

Rick Chessen

Alison Greenwald

Tom Horan

Bill Johnson

Deborah Klein

Mary Beth Murphy

Natalie Roisman

John Wong

Elizabeth Andrion

Jon Cody

Stacy Robinson Fuller