

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matters of	)	
	)	
Second Periodic Review of the	)	
Commission’s Rules and Policies	)	MB Docket No. 03-15
Affecting the Conversion To	)	
Digital Television	)	
	)	
Children’s Television Obligations Of	)	MM Docket No. 00-167
Digital Television Broadcasters	)	
	)	
	)	

**COMMENTS OF THE COALITION FOR INDEPENDENT RATINGS  
SERVICES ON CHILDREN’S TELEVISION AND OPPOSITION TO CEA  
PETITION**

**I. INTRODUCTION**

Through these comments the Coalition for Independent Ratings Services (“CFIRS” or “Coalition”) opposes the Consumer Electronics Association’s (“CEA”) Petition for Clarification and/or Reconsideration seeking to restrict U.S. digital content advisories to two systems – the current U.S. rating region known as “0x01” and the alternative U.S. rating region known as “0x05”.<sup>1</sup> CEA’s Petition should be dismissed as contrary to the public interest, because grant and the subsequent narrowing of readable Rating Region Tables (“RRT”) by V-Chips in digital television sets purchased and viewed by U.S.

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<sup>1</sup> As the Commission knows, content advisory data is embodied in Rating Region Tables (“RRTs”) that are part of the Program System and Information Protocol (“PSIP”) stream that is transmitted with DTV signals. The current U.S. RRT is identified by region code “0x01”.

consumers, would harm the public interest by foreclosing options whereby consumers can choose from multiple, competitive ratings of television programming.

In these comments, CFIRS also responds to the Commission's request for comments on how to ensure that parents can control what information their children can access in a DTV environment.<sup>2</sup> In its recent decision on *Children's Television Obligations of Digital Television Broadcasters* ("Children's DTV R&O"), the Commission sought comment on, "how to tailor our rules to allow innovation in interactivity in children's television programming, while at the same time ensuring that parents can control what information their children can access."<sup>3</sup> CFIRS maintains that by denying CEA's Petition, and thereby ensuring the possibility of an open V-Chip accessible by competitive, independent ratings, the Commission will help to ensure that parents can better control what information their children access, as well as allow innovation in interactivity with independent ratings. Not insignificantly, the Commission will also maintain the flexibility in ratings it clearly sought to provide in the Report and Order in its *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*.<sup>4</sup>

The CFIRS was organized to raise awareness among policy makers, content providers and the general public about the availability and value of independent ratings systems as a tool to assist consumers in making more informed choices about their entertainment

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<sup>2</sup> See *In the Matter Of Children's Television Obligations Of Digital Television Broadcasters*, Report and Order and Further Notice of Proposed Rule Making, 19 FCC Rcd. 22943 (2004) ("Children's DTV R&O").

<sup>3</sup> *Id.* at ¶ 71.

<sup>4</sup> *In the Matter of Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, 19 FCC Rcd. 18279 (2004) ("Second Periodic Review R&O").

options – particularly with regard to what content is accessible by children. The CFIRS members are PSVratings, Inc. ([www.psvratings.com](http://www.psvratings.com)), the National Institute on Media and the Family ([www.mediafamily.org](http://www.mediafamily.org)), Critics, Inc. ([www.kids-in-mind.com](http://www.kids-in-mind.com)), Coalition for Quality Children’s Media ([www.cqcm.org](http://www.cqcm.org)), FamilyStyle Film Guide ([www.familystyle.com](http://www.familystyle.com)), Grading the Movies ([www.gradingthemovies.com](http://www.gradingthemovies.com)), and The Children’s Software Revue (<http://www.childrensoftware.com/>). Each Coalition member offers independent ratings services.<sup>5</sup>

On November 3, 2004, CEA petitioned the Commission to modify the last sentence of newly adopted rule 47 C.F.R. §15.120(d)(2) to require only that “[d]igital television receivers shall be able to respond to rating region 0x05, representing a future, alternate U.S. content advisory rating system.”<sup>6</sup> The existing rule requires DTV receivers

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<sup>5</sup> Additional information is available at <http://www.independentratings.org>.

<sup>6</sup> *Petition of the Consumer Electronics Association for Clarification and/or Reconsideration*, MB Docket No. 03-15 at 6 (filed Nov. 3, 2004) (“CEA Petition”) (emphasis omitted). As adopted in the *Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, Rule 15.120(d)(2) reads:

Digital television receivers shall react in a similar manner as analog televisions when programmed to block specific rating categories. Effective March 15, 2006, digital television receivers will receive program rating descriptors transmitted pursuant to industry standard EIA/CEA -766-A “U.S. and Canadian Region Rating Tables (RRT) and Content Advisory Descriptors for Transport of Content Advisory Information using ATSC A/65-A Program and System Information Protocol (PSIP),” 2001 (incorporated by reference, see §15.38). Blocking of programs shall occur when a program rating is received that meets the pre-determined user requirements. Digital television receivers shall be able to respond to changes in the content advisory rating system.

Second Periodic Review R&O at B-1; 47 C.F.R. § 15.120(d)(2).

EIA/CEA-766-A describes the use of rating region 0x01 for the *TV Parental Guidelines*, the current industry U.S rating system developed by NAB and the MPAA. Rating region code (or Table ID) 0x05 was reserved (in 766-A) for an unspecified alternative U.S. rating system prior to the Commission adopting the Second Periodic Review R&O.

to respond to “changes in the content advisory rating system,”<sup>7</sup> not merely to rating region 0x05. The effect of CEA’s petition would be to limit the U.S. to two RRTs.

## **II. SUMMARY OF THE COALITION’S POSITION**

The Coalition believes that independent ratings – when coupled with an open V-Chip and prior access by independent ratings systems providers to programming – will provide parents and other caregivers with practical tools to protect children in their care from inappropriate or harmful content. Even today, with broadcaster and Internet service provider cooperation, independent ratings providers could offer competitive, alternative ratings for films and video games exhibited over broadcast or cable networks and viewed or played over television sets.

A V-Chip that is open to additional ratings that are independent from the content producer is in the public interest. An open V-Chip can channel the interactive capabilities of DTV to help caregivers find programming appropriate for children under their care, consistent with pre-selected content preferences, and thereby enhance family viewing. With an open V-Chip over DTV, DTV receivers could display suggested programming that meets pre-selected viewer preferences. Moreover, certain independent ratings systems, such as PSVRatings, are now investing in technology that would enable consumers to block out selected scenes as well as overall content. Acceptance of CEA’s petition would have the effect of stopping all such investment and prevent consumers from ever exerting the control they deserve over media content entering their homes via public and private broadcasters.

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<sup>7</sup> *Id.*

The Commission itself has already stated that DTV technical standards should not foreclose the option of using V-Chip technology to support multiple rating systems,<sup>8</sup> and it recently adopted standards permitting manufacturers to develop V-Chip technology that can be used in conjunction with additional ratings systems.<sup>9</sup> In order to enable the V-Chip to suggest programming that matches *caregivers*' pre-selected preferences offered through an independent ratings provider, multiple RRTs must be available to broadcasters. CEA's Petition would foreclose the use of the V-Chip to support any data other than the industry's own rating schemes, MPAA's for films and the MPAA's and NAB's joint TV Parental Guidelines for television programs. Thus, because granting CEA's Petition would severely limit the ratings flexibility the Commission seeks, the Commission should dismiss the CEA Petition as inconsistent with the FCC's decision, and contrary to the public interest.

### **III. CHILDREN'S TELEVISION OBLIGATIONS OF DIGITAL TELEVISION BROADCASTERS**

On November 23, 2004, the Commission released its Report and Order and Further Notice of Proposed Rule Making in *In the matter of Children's Television Obligations of Digital Television Broadcasters*.<sup>10</sup> In that decision, the Commission sought comment on how to tailor its rules to ensure that parents can control what media content their children can access.<sup>11</sup> The Coalition believes that an open V-Chip would improve the functionality of the V-Chip over its current uses.<sup>12</sup> The Commission has acknowledged,

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<sup>8</sup> Children's DTV R&O at ¶ 63.

<sup>9</sup> *See id.*; *see also* Second Periodic Review R&O.

<sup>10</sup> *See* Children's DTV R&O.

<sup>11</sup> *See supra*; *see also* Children's DTV R&O at ¶ 71.

<sup>12</sup> CFIRS notes that currently the V-chip is not "closed." Nor should it be. As elaborated upon in this document, additional flexibility in how consumers use or prescribe ratings can lead to greater V-chip

and several studies have suggested, that the V-Chip, as it is being used, is not accomplishing its intended purpose.<sup>13</sup> A 1998 Kaiser foundation study found that, during the first year the ratings system was in use, only 20 percent of programs containing violence, sexual material, or profanity was appropriately labeled.<sup>14</sup> A more recent Kaiser foundation survey concluded that 40 percent of parents who use the industry ratings system do not believe [its authors] rate programs accurately.<sup>15</sup> And a recent Annenberg Public Policy Center study found that only 30 percent of families with a V-Chip-equipped television actually used the V-Chip in the course of a year.<sup>16</sup>

The Coalition's view is that independent ratings systems can meet these consumer demands for more accurate and detailed information on program content.<sup>17</sup> Independent ratings can enable users to enter their pre-selected preferences for content from a broader array of content descriptors than the industry ratings offer, with the V-Chip blocking content that does not meet the user's preferences. As a practical matter, independent

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functionality – and despite CEA's assertions, there are no technical or significant cost barriers to allowing this flexibility.

<sup>13</sup> *See id.* at ¶ 62.

<sup>14</sup> Dale Kunkel et al., *Rating The TV Ratings: One Year Out, An Assessment of the Television Industry's Use of V-Chip Ratings* (A Henry J. Kaiser Family Foundation Report) (September 1998) ("1998 Kaiser Study").

<sup>15</sup> Kaiser Family Foundation, *Parents & the V-Chip 2001: A Kaiser Family Foundation Survey* (2001) at 1-2 ("2001 Kaiser Study").

<sup>16</sup> Jordan, A., & Woodward, E.H., *Parents' Use of the V-Chip to Supervise Children's Television Use*. Presented at the Children and Television Media Policy Roundtable Discussion (Annenberg Public Policy Center) (2003).

<sup>17</sup> One member of the Coalition uses a traffic light icon with P advising on the degree of profanity in a program, S advising on the degree of sexual content, and V advising on violence, including alcohol, nicotine and other drug abuse. The content advisory system uses the colors of a traffic light, so that each of the P, S, and V would be color-coded with red, yellow, green or white to connote the degree of profanity, sex or violence respectively in a given program (e.g., white would connote the absence of any such content). Using a remote control device to interact with the V-Chip in their DTV sets, users could program in their preferred color for each of the content advisories – e.g. yellow for profanity, green for sex and yellow for violence. The V-Chip in their set would read this pre-selected preference, and block programming that carried ratings with a color "above" the pre-selected preference (e.g. pre-selected preferences for green with sexual content would not block white sexual content, and pre-selected preferences for yellow content would not block green or white rated content, etc.).

ratings systems provide a high degree of content description that allows caregivers to choose to screen programming based on the specific aspects that, in their own best judgment, most affect the children in their care or that reflect their own tastes. Multiple, competitive independent ratings cannot be provided over a V-Chip when the technology is artificially limited to the reading of one or two RRTs as CEA advocates. This is particularly the case where the first RRT is already at capacity due to the industry's ratings alone.<sup>18</sup> Therefore, to bring the benefit of independent, competitive ratings to consumers, the FCC must maintain the open V-Chip functionality that it's recently adopted rules permit, and CEA's Petition must be denied.

The availability of multiple ratings systems will make the V-Chip more useful to parents. Giving parents more information and choice as to the nature of content in selecting programming increases the likelihood that they will employ the technology. As CEA itself points out in its Reply Comments, parents *should* be the "final arbiters of what they deem appropriate for *their children*."<sup>19</sup> It is indeed true, as the CEA notes, that "parental behavior and choice cannot be mandated."<sup>20</sup> But if the policy goal is to provide parents and caregivers with tools to control content that their children access, then a rule that allows the V-Chip to read *more* rather than fewer ratings systems will better serve

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<sup>18</sup> An RRT is used to specify and define rating systems in use in a given region. The PSIP can accommodate multiple RRTs. Each RRT can define multiple rating dimensions, which implies that it is possible to apply different ratings to a single "event."). However, originally U.S. RRT 0x01 did not use the syntax specified in the PSIP standard, thus requiring additional rules. The result is that the TV Parental Guidelines and the MPAA ratings use up almost all 1024 bytes (each RRT is limited to 1024 bytes) available in RRT 0x01. Consequently, though multi-dimensional ratings within an RRT are technically feasible, there is no "capacity" available in RRT 0x01. *See, e.g.,* Second Periodic Review at ¶ 151 n.345 (citing Zenith Reply comments). Furthermore, there would be a severe constraint imposed on additional rating systems, when tri-lingual (including Spanish) translations are transmitted, if only one additional RRT was supported.

<sup>19</sup> *Reply Comments of the Consumer Electronics Association*, MB Docket No. 03-15 at 2, (filed Nov. 15, 2004)(emphasis added).

<sup>20</sup> *Id.*

that goal. And in order to ensure that the V-Chip can support a number of ratings systems, the number of RRTs available to broadcasters should not be limited.

Therefore, as a matter of public policy, the Commission must deny CEA's Petition.

#### **IV. SECOND PERIODIC REVIEW OF DTV TRANSITION**

##### **A. THE COMMISSION'S ADOPTION OF PSIP SUPPORTS MULTIPLE INDEPENDENT RATINGS SYSTEMS**

On September 7, 2004, the Commission released its Second Periodic Review Report and Order.<sup>21</sup> In that Order, among other actions, the Commission adopted into its broadcast transmission standards the ATSC A/65B PSIP standard, which specifies how V-Chip rating information is placed and sent in the PSIP transport stream. PSIP is data that is transmitted along with a station's DTV signal that provides information to the DTV receivers about the station and what programming is being broadcast, so that the DTV receiver can – among other responses to PSIP information – tune to a particular DTV station and find that digital programming. Among the data PSIP transmits is V-Chip rating data that enables proper functioning of the V-Chip and, depending on what specific data is provided, can yield improvements in V-Chip functionality.<sup>22</sup> ATSC A/65B, which the FCC adopted in September 2004, requires all DTV broadcasters to place V-Chip rating information in the PSIP, should broadcasters choose to provide V-Chip blocking information<sup>23</sup>

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<sup>21</sup> See Second Periodic Review R&O.

<sup>22</sup> See *id.* at ¶ 149 n.336 & ¶ 152 n.356. Previously, PSIP data was not always transmitted in a standard format which – in some instances – results in incorrect DTV receiver responses.

<sup>23</sup> The Commission also encouraged broadcasters in its Children's DTV Order to consider various ways of improving V-Chip utility. See Children's DTV R&O at ¶ 63.

The PSIP carries the RRT,<sup>24</sup> the data that describes the content advisory descriptors being used. A single RRT contains data used to specify and define rating systems for use in a given region, and the size of an RRT is limited to 1,024 bytes. Today, there is no room for independent ratings as the TV Parental Guidelines and the MPAA ratings have used almost all the capacity in the U.S. RRT 0x01.<sup>25</sup> Accordingly, the Commission decided to open up capacity for ratings by allowing additional RRTs to be used for the U.S.

To display new rating systems, such as the independent ratings provided by members of the Coalition, the DTV receiver would simply decode the new ratings from the RRT and present them to the user during set-up.<sup>26</sup> As long as the ratings follow the RRT syntax and there is sufficient capacity, developers can define any number of new usable ratings. Thus, the Coalition believes there is no sound technical or policy reason to prevent developers from defining multiple, competing independent ratings that could be

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<sup>24</sup> Actually, the PSIP standard provides for multiple RRTs, with each RRT identified by a “region code” (or table ID value). In fact, the standard provides for defining up to 256 *rating\_regions* (and presumably 256 associated RRTs). But as a practical limitation only ratings from up to eight RRTs can be assigned to any one program.

<sup>25</sup> Footnote 18, *supra*.

<sup>26</sup> In its Petition, CEA recognizes that DTV receivers will be able to recognize future, unspecified rating As stated by the ATSC and reiterated in the R&O, the key to a future, unspecified rating system is the “assignment of a new, different rating region code” from rating region 0x01 that is currently linked to CEA-766-A. The new region code can be thought of as the alternate U.S. rating system. It is important to understand that the *rating system itself* or the Rating Region Table *need not be known or specified* at this time, and it can be changed in the future. Rather, it is the **region code itself** that must be known in advance by the television receiver so that the appropriate user interface can be designed. Television receivers can then be designed to filter PSIP packets for rating region 0x01 and the alternate rating region. CEA Petition at 5. (emphasis added).

What CEA fails to mention – and where its “region code” argument fails – is that the same thing can be done for multiple RRTs, up to the capacity provided in the PSIP. So, in the same manner that CEA proposes to register “region code 0x05” for the “alternate U.S. rating region”, independent rating providers or their CE partners can also request registration of region codes (table ID values) through ATSC’s code point registry to provide multiple “alternate” rating regions. To the extent manufacturers must design user interfaces in advance to recognize table ID values for new U.S. ratings in a pre-defined rating region, CFIRS believes this is a trivial issue, and well out-weighted by the benefit to the viewing public. The system is already structured to accommodate additional ratings.

used within the PSIP format recently mandated by the Commission. But this cannot happen if the number of RRTs available to U.S. broadcasters is artificially restricted to two, as CEA requests.

#### **B. THE COMMISSION PREFERS AN OPEN ARCHITECTURE FOR THE V-CHIP**

As the Commission stated in the Children's DTV Order, DTV technical standards should not foreclose the option of using V-Chip technology to support multiple ratings systems.<sup>27</sup> The Commission also stated its position that the ability to modify the content advisory rating system is beneficial and requires that television receivers be able to process new ratings should they be developed.<sup>28</sup> The Coalition takes this opportunity to inform the Commission that its Members have developed independent ratings for films and video games, and that it stands ready to work with broadcasters, cable and satellite television programmers and the motion picture industries to make these new ratings systems available to consumers. The Coalition believes this will assist the Commission's own encouragement to the broadcast, cable and motion picture industries to consider whether any revisions to the rating systems would make it more accurate and easier to understand.<sup>29</sup>

#### **C. THE CEA'S PETITION WOULD FORECLOSE THE USE OF MULTIPLE RATINGS SYSTEMS**

In contrast to the Commission's own stated preference for multiple and improved ratings, the CEA Petition would foreclose such consumer-friendly choices. As elaborated above, the CEA Petition, if granted, would limit new ratings to one additional RRT in the

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<sup>27</sup> Children's DTV R&O at ¶ 63.

<sup>28</sup> *Id.*; see also Second Periodic Review R&O at ¶ 156.

<sup>29</sup> Children's DTV R&O at ¶ 64.

U.S.: Rating Region 05.<sup>30</sup> Contrast this with the fact that up to 256 RRTs can be defined within the PSIP standard. In addition, not all countries will adopt the ATSC standard. Therefore, it is unlikely that RRT capacity will ever be exhausted.

The Commission provides broad language in Section 15.120(d)(2) (“receivers shall respond to changes in the content advisory system”) to permit additional ratings systems to be deployed. By requesting that the Rule be modified to permit merely one additional “alternate” RRT, CEA’s Petition is inconsistent with the Commission’s intent and the public interest. Since RRT 01 is already at capacity with just the industry’s ratings (MPAA’s and TV Parental Guidelines), grant of CEA’s Petition and limitation to RRT 0x05 would unnecessarily foreclose the development of multiple, competitive and independent ratings.

Although CEA indicates that it “fully supports” the goal of manufacturing DTVs that have the capability to respond to future ratings systems not specified at the time of manufacture,<sup>31</sup> its proposed clarification to Rule 15.120(d)(2) would restrict “alternatives” to merely one future rating system.<sup>32</sup>

## **V. PUBLIC INTEREST SERVED BY AN OPEN V-CHIP**

### **A. AN OPEN V-CHIP MAXIMIZES THE POSITIVE EFFECTS OF CHILDREN’S VIEWING**

As noted above, ensuring that the V-Chip architecture remains open to multiple, improved ratings will help parents manage the additional programming that DTV promises. With so many new and interactive programs available, the public’s interest in

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<sup>30</sup> Currently there are 4 RRTs allocated. The US TV Parental Guidelines and the MPAA ratings are defined in RRT 01; Canada uses RRT 02; Taiwan has requested 03; and South Korea is using 04.

<sup>31</sup> CEA Petition at 4. *See also* n. 28 *supra*.

<sup>32</sup> *Id.* at 6 (proposing that the rule read: “Digital television receivers shall be able to respond to *rating region 0x05 representing the alternate U.S. content advisory rating system*” (emphasis added)).

managing content accessible by minors is even greater in the DTV environment. An Open V-Chip through which parents could block programming that did not meet their pre-selected preferences, as offered by objective, independent ratings providers, would be a more effective tool to manage the additional programming available through DTV. Moreover, through parent or caregiver interaction, programming that meets pre-selected preferences entered through independent ratings systems can be suggested to viewers on an advisory screen, thereby capitalizing on the greater interactivity DTV offers.

**B. THE CEA'S POSITION IS CONTRARY TO THE PUBLIC INTEREST**

Beyond the fact that CEA provides no real technical basis for limiting the number of RRTs available to U.S. broadcasters to two, grant of its Petition will actually harm the public interest. Grant of CEA's Petition would be inconsistent with the FCC's goal to ensure that the V-Chip can be the most useful, effective tool possible for parents. Denying CEA's Petition and maintaining Section 15.120(d)(2) as adopted by the Commission in the Second Periodic Review Report and Order will allow for the development of competition among ratings systems, independent of content providers' determinations. Such competition will encourage ratings systems to provide more objective, informative content advisories to the viewing public.

The entertainment industry has a duty to its shareholders to maximize sales of content, and thus the industry developed its ratings with this duty in mind. On the other hand, entities such as the Coalition members would develop independent ratings systems – especially in a competitive environment – with the goal of providing parents and caregivers as much meaningful information about entertainment content as possible.

**C. AN OPEN V-CHIP WOULD REDUCE THE LEVEL OF ENFORCEMENT ACTIONS**

An open V-Chip, and therefore denial of CEA's Petition, would reduce the level of enforcement actions the FCC faces annually. Recently, the FCC has had an escalating amount of indecency or profanity enforcement cases to adjudicate. In the face of this escalating enforcement activity, broadcasters have even at times chosen to resort to the prophylactic pulling of programming.<sup>33</sup> Broadcast affiliate use of independent ratings such as the systems Coalition members provide, would offer more notice to consumers. Independent ratings, technically possible within the recently adopted PSIP standard, provided over an open V-Chip would block content that individual viewers find objectionable. Consequently, use of independent ratings systems could make stations less likely to be the recipient of indecency complaints, since only those homes that did not block profane or violent programming would view such content.

## VI. CONCLUSION

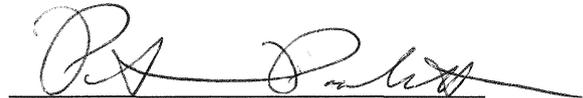
The Coalition believes there are compelling public policy reasons for facilitating multiple ratings by keeping its Second Periodic Review R&O rules intact as adopted and by denying CEA's Petition. The public has a strong interest in permitting consumers to choose the level of information *they* (not the NAB nor the MPAA) desire when screening programs for content *they* deem objectionable. This is as it should be and furthers the Commission's stated policy of encouraging improvements in V-Chip functionality and Congress' goals for providing tools for parents to protect their children from inappropriate programming.

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<sup>33</sup> For instance, some ABC affiliates chose not to air *Saving Private Ryan* during prime time due to their concern that some caregivers would complain about profanity. See, e.g., Jeff Danzinger, *Straight from the Horrors of D-Day: War is Heck! Who Says GIs Need To Yell Naughty Words as They're Saving Democracy?*, L.A. TIMES, November 15, 2004, at B9 (noting that "more than 20 ABC affiliates ... chose not to air 'Saving Private Ryan' on Veteran's Day").

Conversely, granting CEA's Petition would be a step backwards. Consumers would be left with a system that – by all accounts – many do not find useful at all. In effect, granting CEA's petition would foreclose developing content controls that can be dictated by those who know their charges best – parents. CEA's Petition hinders the Commission's and Congress' stated public policy goals and the Petition is unsupported technically. Consequently, it should be dismissed.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Patricia Paoletta", written over a horizontal line.

January 21, 2005

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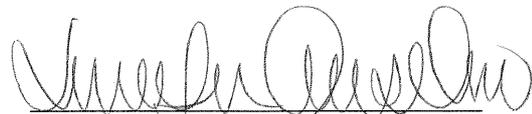
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## CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of January, 2005, I, Jennifer Anselmo, have served a copy of the foregoing Comments and Opposition upon the party listed below by first class mail:

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