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June 10, 2008

Ms. Monica Desai  
Chief, Media Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: CS Docket No. 97-80; PP Docket No. 00-67.**

Dear Ms. Desai:

On May 27, 2008, Sony Electronics and Comcast Corporation briefed you and your staff on an agreement between the six largest cable operators in the United States and Sony Electronics that establishes a national platform for retail devices to receive interactive cable services. The terms of the agreement are embodied in a binding Memorandum of Understanding (MOU) negotiated by Sony Electronics and the six largest cable companies – Comcast Corporation, Time Warner Cable, Cox Communications, Charter Communications, Cablevision Systems Corporation, and Bright House Networks. Those cable companies serve more than 82 percent of all U.S. cable subscribers. As we discussed, other consumer electronics companies will be beneficiaries of this new national two-way “plug-and-play” platform whether or not they sign the agreement, but they have also been invited to formally join the MOU.

At our meeting, staff requested that we submit a copy of the agreement to the Bureau. We are pleased to do so. The agreement itself is a binding contract which addresses all of the significant issues in the above-referenced Commission proceeding. It does not require further government action to facilitate bidirectional compatibility of cable television systems and consumer electronics equipment – the goal described by the Commission in seeking comment on proposals in the two-way “plug-and-play” proceeding.

In this regard, we note that Representative Rick Boucher (D-VA), a senior Member of the House Energy and Commerce Committee and one who has been one of the leading advocates in Congress for new technology and consumer freedoms, said:

A decade ago Congress set out to ensure that consumers would have access to plug and play devices, and since that time, I have often encouraged the consumer electronics and cable industries as well as the FCC to speed the introduction of two-way plug and play devices. The agreement reached between Sony, Comcast

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and Time Warner provides a number of principles for which I have long advocated including ensuring consumers can enjoy the benefits of choice, competition and innovation. Additionally, the agreement allows consumers to be confident that products they buy today will work for a reasonable length of time in the future, promotes the fair and open establishment of a set of standards for manufacturers building devices, and encourages cable operators and device manufacturers to rely on the same technologies.

As we explained in our meetings with you and your staff, we believe this agreement will provide a national, open, and interactive platform. This marketplace solution will quickly result in more choices of services and products for consumers, and do so without government involvement. If you have any questions, please contact one of the undersigned.

Respectfully submitted,

/s/ Joel Wiginton

Joel Wiginton  
Vice President & Senior Counsel  
Sony Electronics Inc.

/s/ Kathryn A. Zachem

Kathryn A. Zachem  
Vice President, Regulatory Affairs  
Comcast Corporation

Attachment

cc: E. Andrion  
R. Chessen  
R. Brioché  
C. Pauzé  
A. Blankenship  
C. Bohigian  
S. Broeckaert  
R. Harold  
M. Lance  
C. Robbins  
N. Murphy  
B. Murray  
J. Wong  
A. Stillwell  
M. Dortch

**MEMORANDUM OF UNDERSTANDING  
AMONG CABLE OPERATORS AND CONSUMER ELECTRONICS ADOPTERS  
REGARDING INTERACTIVE DIGITAL CABLE READY PRODUCTS**

**April 25, 2008**

This Memorandum of Understanding among Cable Operators and Consumer Electronics Adopters Regarding Interactive Digital Cable Ready Products (“MOU”) sets forth binding agreements by the undersigned cable operators (Founders) and the undersigned Adopters with respect to the commercial availability of Interactive Digital Cable Products (IDCPs). The parties enter into this MOU as of April 25, 2008 (the “Effective Date”).

**MUTUAL SUPPORT FOR TRU2WAY**

1. **Deployment.** By July 1, 2009, each of the Founders shall include network support for tru2way Middleware in the hardware and software of headends serving all Digital Cable Systems.
2. **Technology Solution.** The parties agree that the tru2way Specifications define the sole means for Adopter’s IDCPs to access interactive cable services. A Digital Cable System is not required to support any other technology.
3. **Interactive Retail Devices.** Adopter’s IDCPs shall comply with the tru2way Specifications and License Agreements in order to access interactive cable services. Innovative features and functions in Adopter’s IDCPs that are not specified in but are consistent with the tru2way Specifications and License Agreements are allowed and encouraged.
4. **Interactive Founder Devices.** Each Founder shall include the tru2way Middleware in twenty percent (20%) of new interactive navigation devices it purchases after July 1, 2009. This requirement shall terminate when the cable industry has deployed a total of ten million (10,000,000) interactive navigation devices with tru2way Middleware. These provisions are not intended to freeze the tru2way Middleware, or require the purchase of predecessor versions of the tru2way Middleware, or preclude the use of successor versions.
5. **Support for Deployed IDCPs.** Digital Cable Systems which provide network support for the tru2way Middleware as required herein shall continue to provide support for the categories of Founder’s applications running on the version of the tru2way Middleware contained in an Adopter’s IDCP for five (5) years from the first certification or self-certification of an IDCP that includes such tru2way Middleware version. Support may include advances in the application functions, features, services, and technology that are backward compatible with such version of the tru2way Middleware version.
6. **Subsequent Versions of the Tru2Way Middleware .** An Adopter shall have the right to license and deploy in its products the same version of the tru2way Middleware at the same time as such version is commercially available for use and deployment by the Founders.

7. **Guide Data.** Each Founder Digital Cable System that (1) carries a CBS broadcast signal containing Gemstar-TV Guide electronic programming guide data (the Gemstar data) and (2) is covered by a Founder agreement with the owner of rights to the Gemstar data shall refrain from blocking or removing such Gemstar data in one such CBS signal. CHILA shall direct Adopters who wish to use the Gemstar data or successor guide data provider to independently obtain the rights from Gemstar or such successor entity to use such data. This arrangement shall be non-exclusive with respect to successor signals and guide data providers. There is no requirement that Founders provide metadata, additional guide data or any other path for guide data.
8. **On Screen Navigation Display.** Multifunction IDCPs may overlay the manufacturer's navigation control method over cable screens if the overlay (i) is user initiated for each use, (ii) is solely for navigation (e.g., no ads), (iii) is transitory, and (iv) appears the same regardless of the channel.
9. **Innovation.** Innovation in cable networks, cable services, and devices that access cable services is desirable. The parties agree neither access to the cable network and to a current offering of cable services by retail devices nor this MOU shall be a basis for limiting or freezing the cable network, cable services, Adopters' IDCPs or Founder navigation devices, or for imposing additional investment requirements on the cable network.
10. **Sunset.** If fewer than 500,000 additional new retail Adopters' IDCPs are connected to receive cable services via CableCARD or mutually agreed upon conditional access technology from the Founders in any rolling twenty-four month period following July 1, 2009 nationwide, then no further support for IDCPs shall be required under this MOU except for the application support for deployed IDCPs as required by Section 5, and the Founders may make their own business judgments about appropriate support for such devices.

### **REFORM OF LICENSING AND TESTING**

11. **License Agreements.** Licensing of Adopters' IDCPs shall be under the CableLabs' licensing suite: CableCARD-Host Interface License Agreement (CHILA), the OCAP Implementers License Agreement, the Digital Certificate Authorization Agreement, the OpenCable Contribution Agreement, and successor agreements ("License Agreements"). Adopters will sign and remain party to the CableLabs' License Agreements as amended and attached hereto; provided that Adopters may terminate the OpenCable Contribution Agreement according to its terms.
12. **Certification and Self-certification.** Certification testing of Adopters' IDCPs shall be at CableLabs using the IDCP Tests. Adopters who have demonstrated that they are consistently capable of Certifying IDCPs may obtain Self Certification status. Successful Certification of at least five (5) mutually agreed upon devices on different platforms in CableLabs Certification Waves indicates such capability.
13. **Advisory Board.** CableLabs will establish a Founders Advisory Board (FAB) composed of representatives of the cable television, content, consumer electronics, and information technology industries for advisory input to CableLabs. CableLabs shall convene such FAB

at least once annually or at the request of any FAB member preconditioned upon a requisite change to the tru2way hardware specifications as defined below. At the request of any FAB member, the FAB shall hold a vote on any proposed changes to the tru2way hardware specifications that impose a significant cost increase on IDCs that are unjustified by consumer choice, interest in innovation, economic burden on the cable operator, or developments in technology (“requisite change”). Voting is permitted as follows: one single vote for the group of content participants, one single vote for the group of consumer electronics Adopters, one single vote for the group of information technology Adopters, one single vote for each of the Founders. The vote shall be recorded at the request of any FAB member and is not confidential. A vote is advisory only, and shall not operate as a veto on proposed changes to the tru2way Specifications. The parties will not interpose this agreement as a barrier to FCC jurisdiction over such changes to the tru2way hardware specifications that are issues within the scope of Section 629 of the Communications Act and FCC implementing regulations, and all parties reserve their rights to petition the FCC for relief with respect to such changes.

14. **Outputs.** CableLabs shall approve or disapprove digital outputs and/or content protection technologies (or “delist” an approved technology) on a reasonable and nondiscriminatory basis within 180 days of submission by an Adopter of a request and all information necessary to evaluate such request. In the event of disapproval or delisting, CableLabs will indicate in writing the specific reasons for its action. CableLabs shall not withhold approval of any such output or content protection technology that provides effective protection to Controlled Content against unauthorized interception, retransmission or copying. In making that determination, CableLabs shall take into account (a) the effectiveness of the technology; (b) the license terms governing the secure implementation of the technology; and (c) other objective criteria. In the event that CableLabs disapproves or fails to act within the time specified above, an Adopter may petition the Federal Communications Commission concerning such denial, lack of approval, or delisting. The parties anticipate that the FCC shall determine in an expedited 90-day proceeding whether the proposed digital output and/or content protection technology provides effective protection to Controlled Content against unauthorized interception, retransmission or copying, taking into account, among other things, the factors utilized by CableLabs. CableLabs agrees to be bound by a final order of the FCC. Notwithstanding the foregoing, in the event that CableLabs is advised that four (4) member studios of the Motion Picture Association approve a digital output or content protection technology that provides effective protection to Controlled Content against unauthorized interception, retransmission or copying, such output or content protection technology shall be deemed approved by CableLabs pursuant to CHILA, and upon receipt of notice by CableLabs of such approval by the four studios, CableLabs shall amend the CHILA Compliance Rules to include such output and/or content protection technology.
15. **Successor Technology.** Notwithstanding anything to the contrary herein, CHILA shall provide that if tru2way support is sunset and CableLabs undertakes to define specifications for a successor technology on Digital Cable Systems, Adopters who remain party to the OpenCable Contribution Agreement may participate in such undertaking under the terms of said Agreement. The parties hereto shall use commercially reasonable efforts to make such successor technology available under RAND or royalty-free terms.

## MISCELLANEOUS

### **16. Definitions**

- 16.1. “Digital Cable System.” A cable system required to provide CableCARDS under 47 C.F.R. §76.1204(a)(1) which have one or more channels utilizing QAM modulation for transporting programs and services from its headend to receiving devices. Digital Cable Systems shall not include cable systems which have an activated channel capacity of less than 750 MHz, or which serve fewer than 5,000 basic cable subscribers.
- 16.2. “Interactive Digital Cable Product” or “IDCP.” Two-way devices that accept a CableCARD meeting the CableCARD Interface Specifications and are capable of receiving interactive cable services, which include, but are not limited to, devices connected to Digital Cable Systems.
- 16.3. “tru2way Specifications” means Issued versions of the OpenCable Host 2.1 Core Functional Requirements Specification (OC-SP-HOST2.1-CFR-I04-080404), the tru2way Middleware (OC-SP-OCAP1.1-I01-061229), tru2way Multi-Mode Functionality Requirements, the CableCARD Interface Specification (OC-SP-CCIF2.0-I14-080404), and the CableCARD Copy Protection System Specification (OC-SP-CCCP2.0-I08-071113 and OC-SP-CDL2.0-I06-080118 including the multi-stream versions thereof), plus any applicable optional extensions implemented by Adopters in an IDCP (e.g., Home Networking, DVR, etc.), and other later versions or specifications available at [www.cablelabs.com/specifications](http://www.cablelabs.com/specifications). An IDCP is deemed to meet the tru2way Specifications if it meets the applicable successor tru2way Specifications published by CableLabs.
- 16.4. “tru2way Middleware” means the OpenCable Application Platform Specification 1.1 (OC-SP-OCAP1.1-I01-061229) and other later versions or specifications available at [www.cablelabs.com/specifications](http://www.cablelabs.com/specifications). A Digital Cable System is deemed to meet the foregoing requirements if it supports the applicable successor tru2way Platform specifications published by CableLabs.
- 16.5. “IDCP Tests” means the test suite and test plan provided to Adopters by CableLabs that are performed in accordance with the Certification Wave Requirements and Guidelines posted at <http://www.cablelabs.com/certqual>.
17. **Regulatory.** The Founders and Adopters agree to jointly support the positions taken in this MOU at the FCC, and before any other regulatory legislative, or governmental body. The Founders and Adopters will vigorously oppose requests to impose additional obligations on the cable industry or CE industry with respect to these matters.
18. **Other Agreements.** This MOU does not restrict or preclude private agreements between or among any of the parties.

19. **Representations.** Each party represents that it has the right to enter into this MOU, that it has authorized the person who has signed this MOU to execute and deliver this MOU on its behalf; and that this MOU constitutes a valid and binding obligation, enforceable according to its terms.
20. **Term.** The term of this MOU shall begin on the Effective Date and shall continue for ten (10) years.
21. **Limitation of Liability.** IN NO EVENT SHALL ANY PARTY BE LIABLE TO ANOTHER OR TO ANY THIRD PARTY FOR EXEMPLARY, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOSS OF PROFIT, SAVINGS OR REVENUE, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR CLAIMS, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, ARISING OUT OF THIS AGREEMENT. THE FOREGOING LIMITATION DOES NOT AFFECT ANY LIABILITY A PARTY MAY HAVE UNDER OTHER AGREEMENTS, INCLUDING THE LICENSE AGREEMENTS.
22. **Law and Jurisdiction.** THIS MOU SHALL BE CONSTRUED, AND THE LEGAL RELATIONS BETWEEN THE PARTIES HERETO SHALL BE DETERMINED, IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, WITHOUT REGARD TO ITS CONFLICT OF LAWS RULES.
23. **No Assignment.** A party shall not assign any of its rights or privileges under this MOU without the prior written consent of the others, such consent not to be unreasonably withheld or delayed. No consent shall be required for the assignment of this MOU to any wholly-owned subsidiary of a party or for the assignment in connection with the merger or the sale of that party or party's business unit provided that the party shall remain liable for its obligations hereunder. Any assignment in connection with a merger or sale of a Founder shall not diminish the number of Founder votes pursuant to Section 11. Any attempted assignment or grant in derogation of the foregoing shall be void.
24. **Notice.** Any notices required or permitted to be made or given to either party pursuant to this MOU shall be in writing and shall be delivered as follows with notice deemed given as indicated: (a) by personal delivery when delivered personally; (b) by overnight courier upon written notification of receipt; (c) by telecopy or facsimile transmission upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, five days after deposit in the mail. All notices must be sent to the address set forth on the signature page of this MOU.
25. **Amendments.** No amendment or modification hereof shall be valid or binding upon the parties unless made in writing and signed by all parties.
26. **Deferred Date.** With respect to Founder Charter Communications, Inc., the July 1, 2009 date specified in Sections 1 and 4 shall be July 1, 2010.
27. **Waiver.** Any waiver by any party of any breach of this MOU shall not constitute a waiver of any subsequent or other breach.

28. **Force Majeure.** If a party is prevented or delayed in performance of its obligations hereunder as a result of circumstances beyond such party's reasonable control, including, without limitation, Acts of God, war, terrorism, acts of the government, and failure of suppliers, subcontractors, and carriers, such failure or delay will not be deemed to constitute a material breach of this Agreement, but such obligation will remain in full force and effect, and will be performed or satisfied as soon as reasonably practicable after the termination of the relevant circumstances causing such failure or delay.
29. **Joint Work Product.** The parties acknowledge that this MOU is the joint work product of the parties and that, accordingly, in the event of ambiguities in this MOU, no inferences shall be drawn against any party on the basis of authorship of this MOU.
30. **No Third-Party Beneficiaries.** Nothing in this MOU shall be deemed to create a third-party beneficiary relationship.
31. **Counterparts.** This MOU may be executed in one or more counterparts; each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument. Signatures to this MOU may be delivered by facsimile, which, upon delivery, shall be deemed to be originals.

**IN WITNESS WHEREOF**, the parties hereto have caused this MOU to be duly signed and to be effective as of the Effective Date above.

**FOUNDERS:**

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