

June 18, 2008

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 Twelfth St., SW  
Washington, DC 20554

Re: *Notice of ex parte* presentation in: CSR-7947-Z/MB Docket No. 08-82

Dear Ms. Dortch:

On June 17, 2008, Gigi B. Sohn, Rashmi Rangnath, and Alex Kanous of Public Knowledge (PK) met with Rick C. Chessen, Senior Legal Advisor/Media Advisor for Commissioner Michael Copps. The purpose of the meeting was to discuss the Motion Picture Association of America's (MPAA) Petition for Waiver of the Prohibition on the Use of Selectable Output Controls (Petition) filed in the above referenced docket.

PK expressed concern that though the MPAA has premised the Petition on the need for secure digital outputs to prevent unlawful copying and redistribution, this is less of an intellectual property issue than a device control issue. Moreover, to the extent that the MPAA seeks to block secured digital outputs, it is an attempt to amend, via waiver, the FCC's "plug and play" decision on selectable output control. *In the Matter of: Implementation of Section 304 of the Telecommunications Act of 1996 Commercial Availability of Navigation Devices Compatibility Between Cable Systems and Consumer Electronics Equipment* 18 F.C.C.R. 20885 (2003).

PK stated that the MPAA has failed to demonstrate that the "analog hole" has been a conduit for unlawful copying and redistribution. The LEK study on the alleged scope of copyright infringing activity has often been referenced by the MPAA when seeking regulatory relief to close the analog hole. However, that study does not show the connection between HD film piracy and the analog hole. Despite repeated requests from members of Congress for the study's data and methodology over the past two years, the MPAA has provided neither.

PK also believes that the MPAA's Petition is vague both as to the nature of the proposed business model and the types of devices that will be subject to selectable output control if the waiver is granted. The latter is of particular concern as it could give the MPAA and its members control over digital devices as well, giving them the power to block even secured digital devices that are not the MPAA's preferred device or do not use their preferred security protocol.



In accordance with Section 1.1206(b), 47 C.F.R. § 1.1206, and the Media Bureau's June 5, 2008 public notice (DA 08-1081) identifying this proceeding as "permit but disclose" in regards to the Commission's ex parte rules, this letter is being filed electronically with your office today.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gigi B. Sohn".

Gigi B. Sohn  
President

cc:

Rick C. Chessen