

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
MOTION PICTURE ASSOCIATION OF AMERICA, INC.)	MB Docket No. 08-82
)	CSR-7947-Z
)	
Petition for Waiver of Section 76.1903 of the Commission's Rules)	

COMMENTS OF DIRECTV, INC.

Pursuant to Section 76.7(b)(1) of the Commission's rules,¹ DIRECTV, Inc. ("DIRECTV") submits these comments in response to the Public Notice² of the filing of the above-captioned Petition for Expedited Special Relief by the Motion Picture Association of America, Inc. ("MPAA").³ In its Petition, MPAA seeks a permanent waiver of Section 76.1903 of the Commission's rules, which prohibits the use of selectable output control for set-top boxes employed by multichannel video programming distributors ("MVPDs").⁴ Because the targeted waiver sought will serve the public interest and will not cause any countervailing public interest harms, the Commission should grant the Petition.

The requested waiver would enable MPAA's member companies to introduce a new service to the public in which motion picture producers would be able to make digital, high

¹ 47 C.F.R. § 76.7(b)(1).

² MPAA Files Petition for Waiver of the Prohibition on the Use of Selectable Output Controls, Public Notice, 23 FCC Rcd. 8175 (MB 2008).

³ Motion Picture Association of America, Inc., Petition for Expedited Special Relief (dated May 9, 2008) ("Petition"). MPAA filed its Petition on behalf of member companies Paramount Pictures Corporation, Sony Pictures Entertainment, Inc., Twentieth Century Fox Film Corporation, Universal City Studios LLP, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment, Inc.

⁴ 47 C.F.R. § 76.1903.

definition feature films available for in-home viewing prior to the films' prerecorded media release dates (the "Services").⁵ In order to make films available during this premium window without risking the misuse of its digital content, MPAA seeks a waiver of the prohibition in Section 76.1903 on MVPDs' use of selectable output controls.⁶ DIRECTV, the leading provider of direct-to-home digital television services in the United States, would like to offer its subscribers this new viewing option, and supports grant of the Petition.

As MPAA explains in the Petition, the Commission expressly contemplated the grant of waivers to allow new applications that are advantageous to consumers when it adopted the prohibition on selectable output controls.⁷ Grant of the Petition is advantageous to consumers because it will yield several public interest benefits. First, the waiver will enable consumers to view content in their homes sooner than they can today, facilitating a broad range of activities by many different segments of the viewing public.⁸ Moreover, the Petition presents the Commission with an opportunity to promote the transition to digital television. As the Commission has observed, the availability of unique, high-definition services drives consumer adoption of digital television sets.⁹ Consumer set purchases, in turn, incent programmers and

⁵ Petition at 2. Feature films are typically released in prerecorded media (*e.g.*, DVDs) about 120 days after theatrical release, but are not available to MVPDs until at least 30-45 days thereafter (for pay-per-view) and far longer for carriage on linear programming channels (*e.g.*, HBO). *Id.* at 5-6.

⁶ Petition at 4-6.

⁷ Petition at 7-8 (citing *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices and Compatibility Between Cable Systems and Consumer Electronics Equipment*, Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd. 20885, ¶ 61 (2003) (in adopting the prohibition on use of selectable output controls, the Commission "recognize[d] that selectable output control functionality might have future applications that could potentially be advantageous to consumers, such as facilitating new business models, and will consider waivers, petitions or other proposals to use selectable output control in this regard").

⁸ Petition at 4-7.

⁹ *See Bend Cable Communications, LLC d/b/a BendBroadband*, 22 FCC Rcd. 209, ¶ 24 (MB 2007) (granting a waiver of the set-top box integration ban in part because such waiver would assist a cable operator to transition

MVPDs to offer more digital content, creating a cycle that furthers the goal of transitioning more and more video programming and equipment to a digital format.

Finally, this limited waiver will not undermine the purpose of the selectable output control prohibition, which was intended to prevent consumer frustration and ensure that early adopters of high-definition sets had access to uniform functionalities. The Services are not currently available, and, once the film is released on prerecorded media for general in-home viewing, selectable output control would no longer be used.¹⁰ Thus, the requested waiver would not deprive any consumer of services she currently has access to, and applies only for the limited period necessary to safeguard this valuable content during a more accelerated release window.

The Petition presents the Commission with an opportunity to further its ongoing efforts to ensure meaningful competition in the MVPD market and expedite the digital television transition. Grant of the Petition also will allow the introduction of a new service offering that will not otherwise be made available, without undermining any Commission policy goals. DIRECTV therefore urges the Commission to approve the requested waiver of its rules and grant the Petition.

to an all-digital network and provide additional high-definition content, thereby creating greater incentives for subscribers to acquire high-definition digital sets); *see also* Petition at 8-9.

¹⁰ Petition at 9.

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Respectfully submitted,

DIRECTV, INC.

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CERTIFICATE OF SERVICE

I hereby certify that, on this 21st day of July, 2008, a copy of the foregoing

Comments was served by hand delivery upon:

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