

September 9, 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: MB Docket No. 08-82

Dear Ms. Dortch:

Please accept our apologies for the late filing of this notice, which was delayed due to an oversight on our part. On September 5, 2008, Gigi Sohn and Jef Pearlman of Public Knowledge met with Rick Chessen, Senior Legal Advisor and Media Advisor to Commissioner Michael J. Copps. The purpose of this meeting was to discuss the Motion Picture Association of America's (MPAA) *Petition for Expedited Relief and Petition for Waiver of 47 C.F.R. § 76.1903* in this docket.

First, we emphasized that the MPAA could change their release windows today if they chose to, even in the absence of a waiver. The few home-bound individuals who have or could afford brand new high-end televisions could then benefit from earlier release windows even without the waiver. Second, we pointed out that no evidence has been presented in the record that analog or protected digital outputs are the source of copyright infringement or that the waiver would have any effect on infringement. Further, the fact that infringing copies of movie releases are available online before the current or proposed VoD release dates demonstrates that these outputs are not the source. Third, we explained that changing the release date of movies was not a new business model, as others have been doing so for a considerable amount of time. Finally, we pointed out that any limited effect that granting the waiver would have on the DTV transition would be negative.

The remaining substance of our discussion is contained in our previously-filed comments and reply comments in this docket and the attached one-page informational sheet which was distributed at the meeting.

In accordance with Section 1.1206(b), 47 C.F.R. § 1.1206, this letter is being filed electronically with your office today.

Respectfully submitted,



Jef Pearlman  
Equal Justice Works Fellow and Staff Attorney

cc:  
Rick Chessen