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June 5, 2009

VIA ECFS AND  
ELECTRONIC MAIL

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Re: Notice of Ex Parte Presentation  
In the Matter of Petition for Rulemaking and Request for Declaratory  
Ruling Filed by the Coalition United to Terminate the Financial Abuses of  
the Television Transition, LLC  
MB Docket No. 09-23

Dear Ms. Dortch:

On June 4, 2009, Jim Morgan, Director and Counsel for Government and Industry Affairs, Sony Electronics Inc. ("SEL"), met with Robert Ratcliffe, Eloise Gore, Mary Beth Murphy, Steve Broeckaert, Alison Greenwald Neplok, and Brendan Murray of the Commission's Media Bureau, Kathryn Berthot of the Commission's Enforcement Bureau, and Alan Stillwell of the Commission's Office of Engineering and Technology, to discuss the above-referenced proceeding. This letter summarizes the arguments made during this meeting, and is submitted as required by Section 1.1207(b)(2) of the Commission's rules.

By way of background, SEL offers digital televisions for sale in the United States and is both a licensor and licensee of technologies necessary to implement the ATSC standard. SEL's ultimate parent, Sony Corporation, is currently litigating a patent infringement lawsuit relating to digital television against one of Petitioner's members.

### DTV Receiver Market Conditions

The process for licensing technologies necessary to manufacture and sell ATSC-compliant digital television receivers has created a robust, competitive market for these products in the United States. Multiple manufacturers offer sets with a wide variety of features and functionality at a wide variety of price points. This dynamic market exists because of, not in spite of, the underlying patent licensing mechanisms. These mechanisms allow any interested party, for a reasonable fee, to enter the DTV receiver market and benefit from the time- and cost-intensive research and development undertaken by others.

The Commission should view with skepticism any argument that this system inhibits current market participants, deters potential entrants, or otherwise harms the public interest. The reality of the U.S. digital television receiver market demands the exact opposite conclusion.

### Patent Valuation

Petitioner fails to demonstrate that licensors have set unreasonable prices on the intellectual property rights to the technologies necessary to implement the ATSC standard. Under the most generous reading of the Petition, taking every fact alleged therein as true and every claim as valid, Petitioner shows only that the licensing costs of manufacturing an ATSC-compliant device exceed the licensing costs under other standards. Petitioner does not show that these differences are unreasonable in violation of any duty or obligation assumed by a licensor. More importantly, given the market conditions described above, Petitioner cannot demonstrate that these differences have limited competition or raised prices in the U.S. digital television market, and thereby have harmed U.S. consumers.

Licensors consider a wide variety of factors when determining the price at which to offer a particular piece of intellectual property to a potential licensee. These factors include, but are not limited to, the cost of developing the technology at issue, the value and nature of consideration received from the licensee, and the non-price terms and conditions negotiated in the license. Accounting for these factors when determining a given licensing fee falls squarely within the bounds of reasonable and non-discriminatory conduct.

### Patent License Disclosure

Petitioner's claim that the Commission must mandate disclosure of ATSC patent licensing terms to ensure the viability of the DTV receiver market seems odd, given that the market has developed and flourished, as have Petitioner's members, without such intervention. No single entity owns all of the intellectual property rights to the entire ATSC standard. Every digital television manufacturer must license at least a portion of the standard from someone else, and thus to some degree is similarly situated to the Petitioner's membership. Yet that membership represents only a small fraction of market participants. It is unclear how and why

