

November 19, 2009

Chairman Julius Genachowski
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Re: MB Docket No. 08-82

Dear Chairman Genachowski:

Consumers Union and Free Press write to you today to oppose the Motion Picture Association of America's (MPAA) petition for "Selectable Output Control" ("SOC"), in which the MPAA seeks a waiver of an existing rule that bans harmful controls over consumer electronics. We feel that granting the requested waiver would restrict consumer choice, competition, and innovation in the market for consumer electronics, and would undercut the deliberative and transparent policymaking that this Commission has properly emphasized.

This Commission has put transparent processes and data-driven rulemakings first and foremost, a goal we heartily support. In this spirit, a major rule change such as permitting SOC should be considered through a full FCC rulemaking proceeding, beginning with a notice of inquiry, particularly when significant consumer harms are possible. We are concerned that a decision to grant the requested waiver would cause substantial harm to consumers, competition, and innovation, without a substantial record and without sufficient supporting evidence as a basis for judgment. Consumers would have to replace substantial and expensive electronics equipment, and electronics companies would find their innovative and competitive design decisions ultimately controlled by the interests of content companies.

No major policy should be created through waiver, particularly when such policy uproots long-standing Commission rules. If the Commission does not deny the waiver outright, the Commission should begin proper processes with a Notice of Inquiry to begin to conduct a comprehensive and transparent analysis of the issue.

Sincerely,

Joel Kelsey
Consumers Union

Chris Riley
Free Press