

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Video Device Competition)	MB Docket No. 10-91
)	
Implementation of Section 304 of the Telecommunications Act of 1996)	
)	
Commercial Availability of Navigation Devices)	CS Docket No. 97-80
)	
Compatibility Between Cable Systems and Consumer Electronics Equipment)	PP Docket No. 00-67
)	

**REPLY COMMENTS OF THE
MOTION PICTURE ASSOCIATION OF AMERICA, INC.**

I. INTRODUCTION AND SUMMARY.

The Motion Picture Association of America, Inc. (“MPAA”), on behalf of its member companies, Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Twentieth Century Fox Film Corporation, Universal City Studios LLLP, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment, Inc., submits these reply comments in response to the initial comments submitted for the Commission’s inquiry into the competitive availability of navigation devices.¹

¹ See *Video Device Competition; Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment*, FCC 10-60 (Notice of Inquiry in MB Docket No. 10-91, CS Docket No. 97-80, and PP Docket No. 00-67, released April 21, 2010) (the “NOI”).

MPAA, along with a broad representation of industry leaders, praised the achievements of the consumer video marketplace in providing outstanding and diverse products for accessing video programming from multiple sources. This marketplace activity should be permitted to continue without unnecessary government interference or regulation.

Several service providers and technology companies joined MPAA in cautioning the Commission that government-mandated standards are not likely to be successful and may actually stifle innovation and deprive consumers of valuable new products and services. It would further hinder the development of private, marketplace-based solutions that better maximize consumer benefits for the Commission to select a specific technology or designate Digital Living Network Alliance (“DLNA”) as the venue to develop AllVid standards.

II. THE COMMISSION MUST ALLOW PRIVATE INDUSTRY TO DEVELOP THE MARKETPLACE.

As compared to merely five years ago, consumers today enjoy a breathtaking variety of video devices and services that enable their enjoyment of audiovisual content from a multitude of sources and in a number of innovative ways. In its comments in this proceeding, MPAA listed a few of the technical achievements and continuing advances in the home entertainment and communications industries that are rapidly reshaping the consumer marketplace.² Other commenting parties pointed out that increasing cooperation between technology companies, multi-channel video programming distributors (“MVPD”), consumer electronics (“CE”) manufacturers, and content providers are providing consumers

² MPAA Comments, p. 2-3.

with a range of services from a variety of competing sources.³ Indeed, as the NCTA pointed out, there is a veritable explosion of consumer options for receiving video, including IP-based, over-the-top, and other new platforms that offer access to programming from libraries such as Netflix and Amazon, and which may be viewed on over fifty Internet-enabled TV models, iPads, or through Internet-connected Blu-Ray players, PlayStation 3, TiVo devices, or Roku boxes.⁴

MPAA cautioned that government interference during this period of rapid innovation would harm consumers and the public interest.⁵ If the Commission interferes with the marketplace through government mandates, it would be picking winners and losers prematurely in this rapidly evolving environment.⁶ Not only is this a risky strategy, which has not always been successful;⁷ such actions would also contravene Congress's instruction to avoid actions that could freeze the development of new technology and services.⁸ This would also exceed the limited scope of Section 629, which directs the FCC to consult with appropriate industry standard-setting organizations as it seeks to assure the commercial

³ See, e.g., Comments of Cisco Systems, Inc., p. 14.

⁴ Comments of the National Cable & Telecommunications Association, pp. 6-10.

⁵ MPAA Comments, p. 4.

⁶ MPAA in its Comments (MPAA Comments, p. 6) pointed out the availability of competing technologies for home networking. Likewise, Panasonic, in its submission, pointed out the dynamically evolving nature of home networking technologies. Comments of Panasonic Corporation of North America, p. 6. Given this background, government standards that promote a specific home-networking technology will unduly influence this fertile marketplace.

⁷ For example, Verizon cited the Commission's decision to mandate the expensive IEEE interface, which has failed to gain marketplace acceptance. Comments of Verizon, p. 5.

⁸ Comments of NCTA, p. 29, citing H.R. Rep. No. 104-458, at 181(1996).

availability of navigation devices used to access MVPD services, and prohibits the Commission from undertaking any measures "which would jeopardize security of multichannel video programming and other services offered over multichannel video programming systems."⁹

Thus, the message to the Commission from a highly knowledgeable cross-section of industry leaders is clear: in this dynamic and growing area, standards are best set, at the appropriate juncture in time, by the marketplace or cross-industry organizations drawing input from all affected parties, not by a governmental agency. As MPAA noted, this is the same advice that Congress provided to the Commission over fifteen years ago.¹⁰

III. THE COMMISSION'S STANDARDIZATION PROPOSAL UNDERSCORES CONTENT PROVIDERS' CONCERNS REGARDING THE ALLVID CONCEPT.

The concerns of content providers are, in fact, borne out by the specific proposals advanced in the *NOI* to further an AllVid proposal, and by the various technology proponents that filed comments advocating specific tools to facilitate an AllVid implementation. None of these technologies offer a comprehensive solution meeting the needs of content and service providers, therefore making them inappropriate for government standardization. Further, MPAA has concerns that it would be inappropriate in the AllVid context for the Commission to delegate *de facto* control over government standardization to private entities or organizations, particularly those that do not allow meaningful participation by content providers and others in the MVPD ecosystem and at a time when

⁹ See 47 U.S.C § 549(b); accord NCTA Comments, pp. 47-52

¹⁰ MPAA Comments, p. 4, citing H.R .Rep. 103-560, at 91 (1994).

there is healthy competition of competing standards and technologies in the rapidly evolving marketplace.

For example, DLNA and a variety of commenters submit that DLNA may be an appropriate forum in which AllVid standards could be further developed.¹¹ As currently organized, however, DLNA is composed solely by CE and IT companies at the board level and does not present content providers, MVPDs, and other constituents in the MVPD ecosystem with a meaningful opportunity to participate in decision-making related to DLNA guidelines, including decisions regarding content protection and enhanced interactive services.¹² Currently, while some content providers participate as contributing members of DLNA, no content provider has a right to vote within DLNA on any guideline, including those that impact content protection. Content producers and MVPD distributors have made significant investments to develop technical approaches to allow for user interactivity with programming, and it is important for such entities to have meaningful participation in any process addressing such features.

Furthermore, the choice of DLNA as a forum to develop the AllVid proposal would be inadvisable because DLNA is not structured to develop technical standards for content protection. DLNA was formed as a standards-setting body for the home network

¹¹ See, e.g., Comments of DLNA and Comments of Digital Transmission Licensing Administrator LLC, p. 10.

¹² From approximately 2006 to 2008, MPAA participated in DLNA as a contributing member, during which time MPAA communicated its significant concerns regarding content providers' complete lack of voting authority within DLNA. At that time, MPAA and DLNA attempted to negotiate a memorandum of understanding pursuant to which MPAA and its member companies would be afforded a meaningful voice to influence the outcome of DLNA guidelines. Unfortunately, the DLNA organizational structure precluded such an agreement from being finalized.

environment and not to establish end-to-end content protection. While some private industry efforts such as Ultraviolet (formerly DECE) point to DLNA for home networking capabilities, such efforts separately define all the specifications required to support various business models and content distribution to the home.

Finally, DLNA as an organization does not have either the charter or the infrastructure necessary to effectively operate a robust content protection regime, an essential requirement to protect high-quality MVPD content.¹³ Established entities that administer content protection regimes, such as NDS, Nagravision, and CableLabs, have invested significant capital to set up trust authority infrastructure, licensing schemes, and revocation and renewal processes to operate an end-to-end content protection ecosystem. DLNA lacks such an infrastructure.¹⁴

The *NOI* also suggests that DTCP-IP may be the appropriate technology protection standard for its AllVid proposal. MPAA has already pointed out some technical limitations of DTCP-IP that are relevant in the AllVid context.¹⁵ In addition, DTCP-IP was not designed to handle the upstream communication of data that would be needed between a

¹³ MVPD content protection is handled by private bilateral agreements between content suppliers and MVPDs that set forth the terms under which content is made available, including content security requirements. See MPAA Comments, p. 8.

¹⁴ Another essential function of a content protection interoperability standard is an end-to-end content protection certification testing and labeling program. The requirements of operating an end-to-end content security program are complicated, and they are not met by either DLNA's program to test for interoperability of a home-networking ecosystem or by DTLA's link-protection certification program.

¹⁵ DTCP-IP lacks support for rich usage rights signaling which limits business innovation, and the one-way nature of the DTCP-IP interface precludes any upstream signaling or communication with the AllVid device. See MPAA Comments, p.4-6.

Smart Video Device and an AllVid adapter.¹⁶ There are also technical, contractual, and operational limitations that preclude DTCP-IP from being the appropriate content protection technology standard for an AllVid implementation. For example, DTLA does not provide a technical specification for the carriage of system renewability messages (“SRM”) of any other content protection technology that is authorized to receive content from DTCP-IP, nor does DTLA contractually require its licensees to carry SRMs of other downstream content protection technologies.¹⁷ Practically, this means that when a device receives content from DTCP-IP, it cannot determine whether the security of an authorized downstream device (that is protected by a content protection technology other than DTCP-IP) has been compromised. These limitations illustrate why it is inappropriate to select one content protection technology, such as DTCP-IP, as the sole standard in this type of environment – any single technology is unlikely to meet all the requirements for an AllVid implementation.

In short, content providers remain concerned that the proposed AllVid concept would foreclose innovation on the content and service side of the MVPD ecosystem, stifle innovation in business models on the MVPD platform, impinge on private contractual and licensing agreements on the protection of MVPD content and services, and ultimately limit consumer choice. In light of these concerns, the Commission should defer to voluntary, marketplace-based innovations to best meet consumer demand.

¹⁶ DTCP-IP does not support bidirectional communication of control information, such as the list of channels available to a subscriber to allow the display device to present the electronic programming guide in accordance with the user’s subscription and user selection so as to enable interactive features such as video-on-demand, between the smart video device and the AllVid device. See MPAA Comments, p. 5.

¹⁷ See DTCP licenses available at DTCP.com

IV. CONCLUSION.

Comments submitted by MPAA and by other participants in the video distribution industry make it clear that there is a lively marketplace in the field that is capable of stunning innovation and responsiveness to consumer needs. Marketplace participants regularly cooperate on private, voluntary standards necessary to provide high-quality services while protecting the desirable content that drives the industry. Additional regulation would only interfere with the operations of this market and suppress the introduction of new technology as well as the delivery of valuable protected content. At this time, MPAA respectfully requests that the Commission refrain from regulation and allow private, marketplace-based innovation to flourish.

Respectfully submitted,

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