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EX PARTE

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: MPAA Petition for Waiver § 76.1903; CSR-7947-Z, MB Docket No. 08-82

Dear Ms. Dortch:

On September 9, 2009, at the request of the Media Bureau, I met with William Lake, Chief, Media Bureau, and the following Media Bureau staff: Robert Ratcliffe, Nancy Murphy, Mary Beth Murphy, Steven Broeckaert, and Brendan Murray to discuss the petition for waiver filed by the Motion Picture Association of America (“MPAA”) in the above-referenced proceeding. Accompanying me were Kevin Leddy, Time Warner Cable Executive Vice President, Technology Policy & Product Management, Cristina Pauzé, Time Warner Cable Vice President, Regulatory Affairs, and Paul Glist of the law firm Davis, Wright Tremaine representing the National Cable & Telecommunications Association (“NCTA”).

At the meeting I reiterated NCTA’s strong support for the waiver requested by MPAA as was previously reflected in NCTA’s Comments and Reply Comments in this proceeding.¹ Mr. Leddy and Ms. Pauzé discussed the process by which first-run movies are released for distribution in successive distribution “windows” (*e.g.*, theaters, DVDs, premium cable networks, video-on-demand, cable networks, and broadcast television) and cable customer desires – as reflected in calls to cable companies – to be able to order and view movies that have been recently released in theatres as soon as possible. In this regard, we discussed the concerns of content providers that such high value content be adequately protected against piracy before they would provide it to cable companies and other Multichannel Video Programming Distributors (MVPDs) for distribution to their customers.

¹ See Comments of the National Cable & Telecommunications Association (filed July 21, 2008) and Reply Comments of the National Cable & Telecommunications Association (filed July 31, 2008) in CSR-7947-Z, MB Docket No. 08-82.

We discussed potential plans of cable operators to provide early release high-definition movies to their customers if the MPAA waiver is granted to allow the use of selectable output controls (“SOC”). We observed that the ability to use SOC would provide content providers the security they need to release such high value content to MVPDs for distribution to MVPD customers. If the MPAA waiver were granted, consumers could have the ability to order movies that are recently released in theaters for viewing over cable and other MVPDs from the comfort of their homes. Consumers would no longer need to wait for the DVD release, or release to video-on-demand, subscription television, or television broadcast services that today are normally delayed by many months or longer after theatrical release. *Grant of the waiver would add consumer choices, rather than reduce them: the movies which would be provided using SOC would not have otherwise been provided in such an early viewing window due to content provider security concerns.*

We also responded to questions from Media Bureau staff regarding the technological implementation of such a service. We described how operators would implement SOC at the cable headend as an application and how movies could be protected and transmitted by cable operators to subscribers using existing digital connectors and content protection technologies. We also described how cable operators can use their electronic program guides, on-demand menus, and other consumer communications to inform and guide customer purchases and to avoid customer confusion regarding whether early release movies are available to them.

Respectfully submitted,

/s/ Neal M. Goldberg

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cc: W. Lake
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N. Murphy
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