Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Digital Broadcast Copy Protection	)	**MB Docket No. 02-230**
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	)	

COMMENTS OF THE AMERICAN ANTITRUST INSTITUTE

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Summary

In these comments, the American Antitrust Institute ("AAI") urges the Commission to ensure that its digital broadcast content protection regulations will promote and protect competition, thereby enhancing consumer welfare. The AAI seeks to emphasize the dangers of anticompetitive effects in establishing a regime of "approved" technologies for the protection of digital broadcast content, and to make known its views with respect to certain safeguards that are appropriate and effective to minimize the potential for such competitive distortions.

The AAI believes that technology approvals should be based on published guidelines and procedures and on the full disclosure of any and all IP purported to be conveyed under a license for any approved technology. The terms of licenses should be fully vetted to minimize their potential for anticompetitive effects. The AAI also supports a unified regime applicable to all program delivery modalities and the consolidation of this proceeding with the Commission's "Plug & Play" proceeding. Moreover, the AAI supports functional criteria in connection with the approval of content protection and recording technologies.

The AAI also cautions against license compliance requirements which permit private parties to co-opt policy, lock-in consumers, or defeat device interoperability. In addition, overly broad "non-assert" or "grantback" provisions should be prohibited in licenses conveying rights to governmentally-endorsed technology.

Finally, the AAI supports the independent administration of licenses to ensure reasonable and non-discriminatory royalty rates, and to protect proprietary information. The AAI sees the need for an independent mechanism for resolving disputes over the terms or administration of licenses. Finally, where changes to licenses are material and substantial, the AAI urges the Commission to require re-submission of the technology for approval.

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1. Introduction and statement of interest.

The American Antitrust Institute ("AAI") submits these comments in connection with the Commission's *Further Notice of Proposed Rulemaking* ("*Broadcast Flag FNPRM*") in the above-captioned proceeding.[1] AAI is an independent research, education, and advocacy organization that supports a leading role for competition, as enforced by our antitrust laws, within the national and international economy. Background on the AAI may be found at www.antitrustinstitute.org, including participation in other matters involving the telecommunications and media industries.[2] We appreciate the opportunity to provide comments on the FCC's *Broadcast Flag FNPRM*.

The AAI's sole interest in this proceeding is to ensure that the Commission enhances consumer welfare to the greatest extent possible by minimizing competitive distortions in and

[1] *Digital Broadcast Content Protection*, MB Docket No. 02-230, *Report and Order and Further Notice of Proposed Rulemaking* ("*Broadcast Flag Order and FNPRM*") (rel. Nov. 4, 2003). By *Order* (rel. Dec. 23, 2003) in this proceeding, the Commission extended the deadline for filing comments until February 13, 2004.

[2] Funding comes to the AAI through contributions from a wide variety of sources. More than 70 separate sources each have contributed over $1,000. A full listing is available on request.

among the consumer electronics, information technology, media, and related technology industries. The Commission's rulemaking in this docket, and in the *Navigation Device and Cable Compatibility* proceeding,[3] will inevitably affect the competitive position of market participants in each of these industries. Therefore, in addition to the many technical and practical considerations facing the Commission in this area, the AAI urges the Commission to undertake a full analysis of the competitive effects of each of the numerous policy choices confronting it.

The sources of potential competitive distortions fall roughly into three categories. First, the procedures for approval of content protection or recording technologies may be skewed toward one class of competitors over another, or one industry over another, or one modality for the delivery of programming over another. Second, the terms of the various technology licenses may have anticompetitive effects, by, for example, locking-in consumers to the use of affiliated technologies, favoring licensor (insider) implementors over licensee (outsider) implementors, or, through overly broad intellectual property "grantback" or "non-assert" provisions, favoring imitators over innovators. Finally, the administration of technology licenses can favor one set of competitors over another, or involve the risk of the divulgence of competitors' proprietary information. The remainder of these comments examines each of these sources of competitive distortions *seriatim*, and offers certain proposals to minimize such anticompetitive effects.

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[3] *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices and Compatibility Between Cable Systems and Consumer Electronics Equipment*, CS Docket No. 97-80 and PP Docket No. 00-67.

2. Guidelines and procedures for approval of content protection or recording technologies are needed to minimize competitive distortions.

As a result of the Broadcast Flag regulations adopted in the *Broadcast Flag Report and Order and FNPRM*, the approval of any particular technology for use in consumer devices has the practical effect of putting the force of law behind the specifications and licenses related to such technology. As such, Commission decision-making (at the most) or Commission oversight (at the very least) of the approval process is essential. Affected parties must be given the right to comment upon the technical and economic implications of the approval of a particular technology, and/or the right to appeal the outcome of any initial decision to the Commission. Approvals on an ad-hoc basis are not susceptible to such oversight or right of appeal, making pre-announced approval guidelines and procedures necessary.

Approval of a technology with intra- or cross-industry effects must not be delegated to a particular industry (*e.g.*, content producers) or particular groups within one or more industries, unless such groups are legitimate standards-setting organizations ("SSOs"). However, the AAI recognizes that traditional standards-setting procedures can often be too costly or time-consuming to respond effectively to changes in technology and market conditions. Several of the criteria adopted as part of the Commission's interim procedure in this proceeding for the approval of privately developed technical specifications, or specifications arrived at through informal multilateral arrangements, have, if not pro-competitive effects, a tendency to attenuate the kind of competitive distortions likely to arise on account of the absence of SSO-type procedural safeguards. These include the interoperability of products incorporating the specification, the compliance rules, robustness rules, and change provisions incorporated in the license, and the scope of approval of

downstream transmission and recording methods. Each of these criteria should be elaborated on in final Broadcast Flag rules, and augmented with additional criteria, particularly in the area of technology licenses.

In addition, these guidelines and procedures should apply irrespective of the mode of delivery of the digital content to establish a level playing field and avoid inefficient duplication of effort. Accordingly, the AAI ugres the commission to adopt a unified regime applicable to all present and future program delivery modalities.

Finally, functional criteria should be adopted to minimize the differential impact on computer-related devices and consumer electronics devices and to encourage the continued development of software demodulator technology.

A. Guidelines for technology licenses should be established and licenses should be vetted by experts to ensure that license terms are not anticompetitive.

Technology that is jointly licensed by horizontal competitors has many of the attributes of patent pools. The potential for anticompetitive effects in connection with the licensing of intellectual property ("IP") is examined in detail in DOJ/FTC guidelines ("*IP Guidelines*").[4] Owing to the increasingly important role of IP in the U.S. economy, the DOJ and FTC recently convened a series of hearings on "Competition and Intellectual Property Law and Policy in the Knowledge-Based Economy." The agencies' final report has not yet been published, but it can be anticipated that refinements to the IP Guidelines will emerge.

Because of the wide-ranging potential for anticompetitive effects arising from the

[4]*Antitrust Guidelines for the Licensing of Intellectual Property*, Issued by the U.S. Department of Justice and the Federal Trade Commission, April 6, 1995, available at: http://www.usdoj.gov/atr/public/guidelines/ipguide.htm.

inclusion of particular licensing terms proposed in connection with any content protection or recording technology, the Commission should endeavor to fashion guidelines that closely track the considerations set forth in the *IP Guidelines* and the upcoming final report from the 2002 DOJ/FTC hearings, and to implement administrative procedures for fully vetting licensing arrangements based on these considerations. Many of the specific elements of IP licenses with the greatest potential for introducing anticompetitive distortions are discussed more particularly in Section 3., *infra.*, relating to anticompetitive licensing terms, and Section 4., *infra*, relating to license administration.

In addition, the AAI strongly urges the Commission to require that the licensing program for any proposed technology be fully vetted by an impartial decision-maker with expertise in intellectual property licensing. Given the absence of any existing formal restrictions on the scope of such licenses, the need for such a thorough and expert analysis of the terms of all licenses seeking Commission approval is manifest.

Because approved technologies will inherit the force of law upon approval, the private acceptance of licensing arrangements by many, or even numerous, parties, cannot substitute for an independent evaluation of the implications of such arrangements. In this proceeding, the Commission's rulemaking is likely to apply to technical specifications and licenses which have in some cases already been broadly adopted in the marketplace. The Commission risks adopting an *ex post* governmental mandate requiring parties to accept licensing arrangements that in many respects cannot be scrutinized and in other respects cannot survive scrutiny.

Experience from the study of the competitive effects of patent pools created by horizontally-related market participants has led to several basic propositions. For instance,the pool must contain only "essential" patents or claims that apply to a specific field of use;

licensing terms should be offered on a reasonable and non-discriminatory ("RAND") basis; provisions prohibiting licensees from asserting claims related to the technology or requiring them to grantback related IP should be limited in scope to matters reasonably necessary for implementation of the technology. Given the present state of the licensing of content protection technologies, however, it is impossible to evaluate the licenses as they relate to these criteria. This is due to the secretive nature of the licensing arrangement and the complete failure of the licensors to disclose the scope of IP covered by their licenses. In many cases, adopters may not even see the specification until after a license is signed and a royalty paid. Adopters called upon to agree to non-assert or grantback provisions ostensibly limited to "necessary claims" without knowing what (or whether) any IP is being conveyed are utterly incapable of knowing what they are relinquishing, whether any IP they possess infringes the licensors' IP (if any), or whether the licensor is, in fact, infringing their IP. Moreover, in the absence of IP disclosure, no reasonable basis exists to adjudge whether the joint licensing of a particular technology by horizontally-related competitors is reasonably necessary to advance adoption of the technology or is merely undertaken for purely anticompetitive purposes.

Unless licensors are required to identify and disclose the IP they are licensing (with the exception of trade secrets, which should be identified but not disclosed), no meaningful analysis of the competitive impact of approving a given technology can be undertaken. Therefore, all putative licensors of governmentally approved technology should, as a threshold matter, be required to identify any and all patents, copyrights, or trade secrets they deem necessary to the technology being licensed. In the absence of such disclosure, the establishment of the guidelines and procedures recommended herein would be utterly ineffectual.

B. A unified regime applicable to all program delivery modalities should be adopted to minimize differentials due solely to the mode of program delivery.

The AAI supports a unified regime for the approval of content protection and recording technologies across all program delivery modalities consistent with the recommendations set forth in these comments. Accordingly, the AAI supports consolidation of the instant proceeding with the *Navigation Device and Cable Compatibility* proceeding for the purpose of the establishment of guidelines, procedures, and regulations applicable to all digital content protection technologies.

In the absence of a unified regime, the Commission risks the incongruous result that device capability and interoperability will depend on the mode of program delivery. This outcome is easily illustrated by assuming that a new recording technology is approved for digital recordings under the broadcast flag regime, and is implemented in an integrated ATSC demodulator/recorder product. If the consumer wishes to make a recording of a permitted type of broadcast content, unless the recording technology is also approved under the DFAST license regime, such a recording may be made only when the content is delivered over-the-air and not when delivered via an MPVD. Obviously, the manufacturer of such a product would seek approval under both regimes. But it should be unnecessary to do so, and such a duplication of effort is inefficient. If a particular content protection or recording technology is satisfactory for the protection of digital content delivered over one modality, it should be satisfactory for *any* modality.

The important inquiry is the relationship of the technology to the *content* irrespective of the mode of delivery. Inter-modal competition will be distorted without a modality-neutral approach to technology approvals, which cannot be accomplished in the absence of a unified

regime. Moreover, the same procedures and guidelines for the approval of broadcast flag technologies are also required in connection with the approval of new DFAST technologies, so consolidation is indicated both at the rulemaking stage and in the administration of the rules, as well.

C. Functional criteria should be adopted to avoid differential treatment of computers and consumer electronics and to encourage innovation.

The AAI strongly supports adopting functional criteria along the lines set forth in the joint Microsoft-HP letter[5] in the *Navigation Device and Cable Compatibility* proceeding as the only means by which to mitigate the danger of at least three distinct potential anticompetitive effects of the Broadcast Flag rule.

First, as the letter makes clear, lack of flexibility in the scope of the definition of covered products or in the means by which content protection may be accomplished may, albeit unintentionally, discriminate against open-architecture computer-related products in favor of "closed" consumer electronics devices. Makers of computer-related equipment should not find themselves under a competitive disadvantage with respect to any mode of digital content distribution as a result of governmental rulemaking. Comment on the technical specifics of the Microsoft-HP proposal is beyond the expertise of the AAI. Nonetheless, assuming that the Commission can satisfy itself that methods such as Digital Rights Management ("DRM") can sufficiently protect content so as to effectuate the non-redistribution goals of the Broadcast Flag rule, every attempt should be made to fashion rules that are as broad as possible to encourage participation in the digital broadcasting market by as many industrial sectors as

[5]Letter from Paul H. Boyd, Microsoft Corporation, and David Issacs, Hewlett-Packard Corp., to Marlene Dortch, Secretary, FCC (Aug. 8, 2003).

possible.

The second anticompetitive effect that can be mitigated by the adoption of functional criteria relates to innovation in content protection technology itself. Innovators whose products fall outside the purview of existing regulations are less likely to invest in new methods. Such a disincentive to innovate is inherently anticompetitive and welfare-reducing. Moreover, adoption of functional criteria will accommodate the policy adopted by the Commission in connection with software demodulators.[6]

Finally, promulgation of functional criteria serves to encourage convergence of CE and IT, while more narrowly drawn rules serve to forestall such convergence. The Commission should avoid even inadvertently retarding the clear trend evidenced in the Microsoft-HP letter and elsewhere toward greater use of computer-related products to capture, distribute, copy, and display high-value digital content. The interests of consumers should be promoted by rulemaking in this area, including receiving and displaying digital broadcast content, not hindered.

3. Licensing terms engendering competitive distortions should be prohibited.

As suggested in Section 2.A., *supra*, one of most important roles the Commission can play in attenuating the anticompetitive potential inherent in the Broadcast Flag regime is to adopt strict guidelines designed to prohibit certain licensing practices. Two areas of particular concern are: 1) the inclusion of overly restrictive compliance rules, which can have the effect of unjustifiably enhancing the market power of the proponents of a particular technology and vitiating the rules and policies adopted by the Commission, and, 2) unreasonably broad or

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[6] *Authorization and Use of Software Defined Radios*, 16 FCC Rcd 17373 (2001).

onerous "non-assert" or "grantback" provisions in connection with the licenses for the various technologies.

A. Licenses should not contain anticompetitive compliance rules which co-opt policy, "lock-in" consumers, or defeat interoperability.

When compliance rules propounded by licensors of content protection technologies are overly restrictive, the effect is to limit or eliminate compliance rules adopted by the Commission. Thus, for example, where the Commission has adopted no restriction on unprotected analog outputs, such a policy can be undermined by a licensor that permits only Macrovision- or CGMS/A-protected analog outputs on compliant devices (see Figure 1. on the following page for a schematic representation of some of the copy protection technologies extant in the market and their interrelationship). Moreover, such overly restrictive compliance rules short-circuit policy-making. At present, an inter-industry analog copy protection working group is negotiating a consensus on the protection of analog outputs. Such negotiations should not be obviated by privately dictated license terms.

Another deleterious effect of overly restrictive compliance rules is to "lock-in" consumers to a chain of particular downstream products. Suppose, for example, the Commission approves DTCP under the Broadcast Flag and DFAST regimes, together with a new secure digital recording method, also approved under both regimes. Unless the new recording method is also simultaneously approved as a downstream technology under the DTCP license, products incorporating the new recording method will suffer an immediate competitive disadvantage because of the inevitable reluctance of the market to accept products with limited interoperability. The only competitively-neutral solution is a "most favored

Figure 1.

Selected Interface and Recording Content Protection Technologies in the Market

Technology	Administrator	Founder(s)	Function
DTCP	Digital Transmission Licensing Administrator, LLC	Sony, Matsushita, Intel, Toshiba, Hitachi (5C)	Transmission over: IEEE 1394, USB, IEEE 802.11x, MOST, IP
CPRM	4C Entity LLC	Matsushita, Toshiba, Intel, IBM (4C)	Recordings on DVD-R, DVD-RW, DVD-ROM & DV-VCRs
HDCP	Digital Content Protection, LLC	Intel	Transmission over: DVI, HDMI
CSS	DVD Copy Control Association/ License Mgmt. Int'l, LLC/CPAC	MEI, Toshiba/DVD CCA	Encryption of pre-recorded commercial DVDs
D-VHS	JVC	JVC	Recordings on: D-VHS VCRs
DFAST	CableLabs	CableLabs	POD Host Interface for MVPDs unidirectional set-top box or Digital-ready Product
AGC/ Colorstripe	Macrovision	Macrovision	Added to analog outputs for prevention of recording
CGMS/A	CEA/Self-administrating	Through industry standards-setting	Carriage of content control information over analog interfaces

Matrix of Cross-Authorizations

(Licensors of Technologies Along the Top have Authorized Sink/Playback Devices to Use Technologies to the Left Marked with "X" Downstream)

	DTCP	CPRM	HDCP	CSS	D-VHS	DFAST
DTCP	X	X		X*	X	X***
CPRM	X	X			X	
HDCP	X	X	X	X**	X	X
D-VHS	X	X			X	
AGC/C.S.	X			X	X	X
CGMS/A	X	X		X	X	

* DVD CCA has authorized DTCP protection for 1394, USB, and MOST, only.
** DVD CCA has authorized HDCP for DVI, only.
*** DFAST has authorized DTCP over 1394, only (based on propsed license as filed).

nation" rule under which no licensor may exert any prohibition against interconnection to any approved downstream technology.

Licensors of approved technologies should be prevented from leveraging their approval to their own competitive advantage through restrictions on device interoperability. For example, licensors of a transmission protection technology may be tempted to include license terms that limit downstream interconnection by compliant devices to products employing certain formats or other attributes that compete with formats or attributes adopted by the licensors, or prohibiting interconnection with products containing modulated digital outputs. Restrictions in license terms limiting interoperability should be disfavored, and the proponent of such limits should be required to meet a strict burden that the restriction is absolutely necessary to control unauthorized redistribution.

B. Licenses should not contain overly-broad "non-assert" provisions or "grantbacks" of intellectual property that diminish the incentive to innovate.

These comments have already alluded to the incongruence of requiring licensees to execute IP "non-assert" or "grantback" provisions in the absence of a full disclosure by the licensor of the IP being licensed. Once such a disclosure is made, however, the inquiry then turns to the reasonableness of such license terms. When wide adoption of technology is pro-competitive and welfare-enhancing, limited non-assert provisions are a sensible preventative mechanism to guard against the problem of patent "hold-up," in which a party holding an essential patent first discloses its patent only after the technology has been adopted as a standard or is widely implemented. Under such circumstances, a non-assert provision can prevent the party from enforcing its patent. The use of non-assert provisions that are more

broad than is necessary to guard against such anti-competitive behavior, however, should be strictly prohibited when a license relates to a governmentally mandated technology.

Overly broad non-assert provisions injure the competitive process in several ways. Some parties who undertake little or no R&D may be indifferent to the presence of such license terms, while others that are innovation intense may find them onerous. Thus, non-assert or grantback provisions serve to discriminate between imitators, who have little to fear from such provisions, and innovators who may be putting a great deal at risk by entering into such agreements.

Broad non-assert or grantback provisions can also serve to stifle innovation. Unless innovators are assured that they will be able to reap the fruits of their innovations, they will loose the incentive to build upon existing technologies or create new ones. This is manifestly harmful to the competitive process.

Grantbacks, in which IP related to the field of use covered by a given technology license is developed by a licensee, must also be reasonable and narrowly drawn to avoid the disincentive to innovate. Grantbacks should award the innovator RAND royalties and should under no circumstances give the grantee of a governmentally approved technology a "free ride" on the IP of its licensees.

In this respect, the present version of the DTLA license is manifestly inappropriate, not only because the non-disclosure of the IP being licensed (if any) fails to permit any reasonable analysis of the scope of "necessary claims," but because without granting any rights to any IP of its own, the licensors seek to enjoy the IP of its licensees free of charge. Were the Commission to approve the DTCP technology without requiring IP disclosure and a substantial narrowing of the non-assert provisions in the present DTLA license, innovators

will find themselves in the untenable position of either refusing to enter into the agreement, and exiting the market for DTV devices altogether, or acceding to the terms of the agreement and risking some or all of the value of its IP portfolio. The anticompetitive effect of either outcome is obvious, and the Commission should not be the instrument by which such competitive distortions are introduced into the market.

4. Competitive distortions arising out of the administration of technology licenses should be minimized.

In addition to the terms of the relevant technology licenses, the manner in which these licenses are administered can also engender important competitive effects. For instance, the determination of RAND royalty rates is a matter of a great deal of debate. Not all parties may view a given royalty as RAND, or the reasonableness of a given regime can change over time. Moreover, proprietary information gathered in furtherance of license administration may often be proprietary in nature, and competitively damaging if disclosed. Another important administrative function is the resolution of disputes, the absence of an impartial resolution of which can also introduce competitive distortions. Finally, changes in specifications or licensing terms can have important competitive effects. The determination of these issues as they relate to the licensing of a governmentally mandated technology should under no circumstances be left to the unfettered discretion of licensors who may be cooperating competitors (insiders) granting licensing to other horizontally related competitors (outsiders).

A. Licenses should be administrated by an independent entity to ensure reasonable and non-discriminatory royalties and prevent the disclosure of proprietary information to competitors.

While there is broad consensus in principle that RAND licensing is pro-competitive, there is little real guidance about what RAND licensing is. What may be RAND licensing to one adopter may be onerous to another; what might be reasonable at one point in time may be unreasonable as the market or technology changes; what might seem non-discriminatory to some may be discriminatory to others. There is no formula for how to arrive at a RAND royalty rate, as is clear from the extensive experience of patent courts in assessing damages based on a RAND rate.

Final rules relating to the Broadcast Flag regime should require that licenses for any approved technology be administered by an entity unrelated to all adopters of the technology. Such an entity should be required to establish sufficient procedures for the taking of expert testimony or other fact-finding necessary to resolve any issues relating to any proposed royalty rate. Conceivably, the price set by the administrator may be perfectly acceptable to the putative adopters, in which case administrative determination of RAND rates and Commission oversight or adjudication would be unnecessary. But even were this the case in the first instance, changes in markets and technology can have a great effect on the reasonableness of a royalty rate at some future point in time, in which case the existence of an independent administrator will assure that licensees are given an opportunity to be heard.

The establishment of an independent entity will also promote the granting of licenses on a non-discriminatory basis. Where founders can demonstrate that they have contributed IP of value to the specification, they should be entitled to be compensated appropriately. But, in the absence of having contributed something of demonstrable value which might either off-

set royalty payments or result in a revenue stream where the RAND rate results in revenue in excess of the actual costs of administration, all adopters, including previous insiders, should be required to pay the RAND royalty.

An independent administrator is also a more effective means of ensuring that proprietary information provided by licensees is not disclosed to competitors. In principle, a "firewall" could be required to prevent disclosure of proprietary information from outsiders finding its way to insiders. The independence of the administrator, however, is a more effective means of protecting licensees.

With respect to changes in license terms, specifications, or compliance and robustness rules, every effort should be made to minimize the advantage to the insiders over the outsiders. Here too, an independent administrator serves to ensure that no set of horizontally related competitors enjoys a competitive advantage. Material and substantial changes to the terms of the license or specifications should be required to undergo a re-approval process, however, as discussed more fully below.

B. Licenses should provide for an independent mechanism for resolving disputes, such as changes in circumstances affecting the reasonableness of royalties or instances of discriminatory treatment.

Because of the subjective and dynamic nature of RAND license terms, changes in market or technological circumstances, or the need for changes in the nature of the license or technology itself, some adopters may feel discriminated against and disputes may arise which require input from aggrieved adopters. Resolution of such disputes is an administrative function that likewise should not be left to the unfettered discretion of licensors. An independent mechanism to assure a fair hearing for licensees and the impartial resolution of

disputes should be required. This is more easily accomplished when the administrator is independent, in the absence of which procedural rules are necessary to protect the interests of outsiders. Dispute resolution should accommodate the general procedural due process principles of notice and opportunity to be heard, and adverse decisions should be reviewable by the Commisson.

C. Changes in licensing provisions should undergo re-approval.

In the event that changes in license terms or specifications materially and substantially alter the nature of the technology, its interoperability, or other characteristics which affect the competitive position of an adopter in the marketplace, such changes should undergo re-approval. Approval of a particular technology should be limited to the scope and applicability of the initial certification and not grant an open-ended right to extend and modify the original submission. Affected parties should have the right to petition the Commission commensurate with their rights upon approval in the first instance.

Conclusion

The Commission's rulemaking in this area is nothing less than the micro-management of an important technology affecting multiple sectors of the U.S. economy. As such, the potential for competitive mischief is great. However, having undertaken to regulate in this area, it behooves the Commission to pay careful attention to the competitive consequences of its rulemaking, and to establish sufficient safeguards against inadvertent competitive distortions. The AAI appreciates the opportunity to make known both its views regarding the anti-competitive dangers inherent in the Commission's endeavor and its view of the

appropriate safeguards needed to minimize such dangers.

Respectfully submitted,

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