

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

In the Matter of)	
)	
Certification of Digital Output Protection Technologies and Recording Methods to be Used in Covered Demodulator Products)	MB Docket No. 04-66
)	
Certification of Microsoft Corporation)	

OPPOSITION OF THE AMERICAN ANTITRUST INSTITUTE

The American Antitrust Institute (“AAI”) submits this opposition to the Certification of the Windows Media Digital Rights Management technology (“WinDRM”) as an output and recording technology for approval with the use of Covered Demodulator Products.¹ The AAI is an independent research, education, and advocacy organization that supports a leading role for competition, as enforced by our antitrust laws and embodied in the public interest mandate of the Commission, 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

The AAI submits that in its current form the *MS Certification* provides insufficient information to determine whether WinDRM is appropriate as a content protection (“CP”) technology for use with Covered Demodulator Products. The *MS Certification* fails to include

¹*Certification of Windows Media Digital Rights Management Technology for Use with Broadcast Flag (“MS Certification”)*, Docket No. MB 04-66 (filed Mar. 1, 2004).

²Funding comes to the AAI through contributions from a wide variety of sources, including several that may have an interest in aspects of these proceedings. More than 70 separate sources each have contributed over \$1,000. A full listing is available on request.

the terms of the proposed license. Instead, the *MS Certification* merely describes the nature of the license. The AAI believes that if WinDRM is to be publically offered, the Commission must be in a position to review the actual license terms. In particular, the *MS Certification* suggests that products employing the WinDRM technology will be interoperable only with other devices using WinDRM. The AAI believes that interoperability is an exceedingly important pro-competitive criteria on which to base approval or disapproval of potential CP technologies, and that limitations on interoperability should be made clear prior to the approval of any CP technology.

Conclusion

For the reasons stated, the AAI respectfully opposes the *MS Certification* until and unless sufficient information is provided to permit a reasonable evaluation of the competitive effects of its proposed licensing arrangement.

Respectfully submitted,

AMERICAN ANTITRUST INSTITUTE

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