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To: bpdg-tech@list.lmicp.com
Subject: BPDG: CCIA comments on BPDG co-chairs' report

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The Computer & Communications Industry Association has been monitoring the BPDG process for several months. During that time we have been keenly aware of the difficulties of creating a digital rights management system that could protect high-definition content while at the same time protecting fair use for consumers and future innovators alike.

The co-chairs report purports to do so, but falls far short, in part because of the open-ended veto power it has given content owners over technologies that could be used to infringe their copyrights. Philips Electronics, among others, has already outlined the conflict that has resulted from this arrangement.

Such difficulties are a real concern: Intellectual property, after all, is a cornerstone of our industry and something without which we and our members would have no business at all.

But intellectual property in the United States is and always has been a balance between owner and consumer of that property. Part of that balance includes building technology and business models that account for the interests of other industries and consumer themselves. History tells us that juke box owners, piano-roll makers, broadcast music and cable TV didn't just bring new media to consumers, but changed the way established media did business, often with the help of the legal system.

We see no such evolution in the BPDG. Instead of a process that embraces new technology, we see one that attempts to keep it at bay.

Worse, we fear the BPDG approach to intellectual property will ultimately bring all of IP into ill repute. Maximalist approaches that treat consumers not a partners but as parties from which to extract only profits will breed contempt for law as surely as Prohibition ever did, and thereby encourage the piracy this effort is supposed to prevent.

The BPDG approach has been marred by repeated and credible claims of back-room dealing by a small number of parties who have excluded most participants from real decision making. Such closed-door talks raise not only issues of fairness and copyright, but competition law as well.

Over the years, CCIA has participated in numerous standards-setting bodies. Each has included numerous affected participants, all of whom worked towards making systems more interoperable, not less. We call on all BPDG participants to include more companies, more consumer advocates, and to write strict sunshine rules so that all parties are included all negotiations.

We also call on participants to look to the market first -- and the government last - to protect the legitimate interests of all stakeholders

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Director Public Policy
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