Reply Comment by Dale Pontius
Regarding Docket No.RM 99-7A
In response to Bernard R. Sorkin, Esq.
  filing on behalf of Time Warner

<center>Exemption to Prohibition on Circumvention of Copyright
Protection Systems for Access Control Technologies</center>

Mr. Sorkin seems to set forth the idea that anyone who wishes to circumvent the access control measures (CSS) on Digital Video Disks must be attempting to, in his own words, "break into a bookstore and steal a book." Some of us merely wish to view DVDs we have legally purchased for the listed price, using the equipment and software we either have, or have ready access to. For instance, there is additional burden in using the approved DVD media software on a personal computer. Even though this software is frequently given away with DVD drives or DVD-decoding graphics cards, there are considerations beyond this. Often times, a computer is concurrently fulfilling multiple purposes, particularly if it is running Unix or Linux, a Unix-like operating system. These computers cannot simply be rebooted to Windows to play a DVD without disrupting those other activities. For this reason, a true native Unix/Linux player is desired, in order to make use of the DVDs that they have payed for. Lacking such a player, the community responded with the "do it yourself spirit" ordinarily admired in American culture.

Mr. Sorkin also mentions Internet distribution of unauthorized copies. Aside from the often made argument that CSS does not prevent unauthorized copies, or viewing of those unauthorized copies on a standard player, there are technical considerations. A DVD can hold 8.5 GigaBytes per side of data. The fastest residential Internet connections are ADSL and cable modems, only now reaching wide deployment. Both of these are in the same performance ballpark, or 640 Kilobits per second down and 128 Kilobits per second up. At these speeds, it will take approximately 37 hours at full bandwidth to download a DVD from the Internet. To upload that same DVD would take albout 184 hours. At these newest data rates, it just won't be reasonable to move DVDs around on the Internet for several years. For my own part, I won't have access to these services for perhaps 2 years. So on the V.34 connection that is the best I can do, that same DVD will take only 29 days, 24 hours/day on my telephone line.

Furthermore, the present record-able DVD media will only hold 7 GigaBytes of data. So it is not even possible to copy the full content of an 8.5 GigaByte DVD onto one. In addition to that, the record-able media costs roughly double what a DVD does to purchase. This makes pirating seem rather a silly thing to do, in my opinion.

It is also worth looking at the historical perspective of the DVDs immediate predecessor, the audio Compact Disk. Even though record-able CDs have been on the market and affordable for over a year, there does not appear to be any significant piracy. Moreover, the 640 MegaBytes of data that an audio CD holds has not been getting widely distributed by the Internet. Rather, if anything is happening, it is the new MP3 format. This format does not directly compete with the audio CD. In terms of audio quality, it is probably closer to the standard audio cassette tape. This non-competition is significant, because it indicates that the quality of deliverables from pre-recorded media can remain enough better than generally copy-able or distributable media in

order to justify its purchase price.