

(E) AS USED IN SUBSECTION ~~(D)(2)(B)~~ (D)(3)(B) OF THIS SECTION, "ENHANCED SOUND RECORDING" MEANS A SEPARATELY IDENTIFIABLE PRODUCT OR SERVICE THE DOMINANT CHARACTER OF WHICH CONSISTS OF RECORDED SOUNDS BUT WHICH INCLUDES (I) STATEMENTS OR INSTRUCTIONS WHOSE PURPOSE IS TO ALLOW OR CONTROL THE PERCEPTION, REPRODUCTION, OR COMMUNICATION OF THOSE SOUNDS OR (II) OTHER INFORMATION SO LONG AS RECORDED SOUNDS CONSTITUTE THE DOMINANT CHARACTER OF THE PRODUCT OR SERVICE DESPITE THE INCLUSION OF THE OTHER INFORMATION.

(F) AS USED IN THIS SECTION, "MOTION PICTURE" MEANS "MOTION PICTURE" AS DEFINED IN TITLE 17 OF THE UNITED STATES CODE AS OF JULY 1, 1999, OR A SEPARATELY IDENTIFIABLE PRODUCT OR SERVICE THE DOMINANT CHARACTER OF WHICH CONSISTS OF A LINEAR MOTION PICTURE, BUT WHICH INCLUDES (I) STATEMENTS OR INSTRUCTIONS WHOSE PURPOSE IS TO ALLOW OR CONTROL THE PERCEPTION, REPRODUCTION, OR COMMUNICATION OF THE MOTION PICTURE OR (II) OTHER INFORMATION SO LONG AS THE MOTION PICTURE CONSTITUTES THE DOMINANT CHARACTER OF THE PRODUCT OR SERVICE DESPITE THE INCLUSION OF THE OTHER INFORMATION.

(G) AS USED IN THIS SECTION, "AUDIO OR VISUAL PROGRAMMING" MEANS AUDIO OR VISUAL PROGRAMMING THAT IS PROVIDED BY BROADCAST, SATELLITE, OR CABLE AS DEFINED IN THE FEDERAL COMMUNICATIONS ACT OF 1934 AND RELATED REGULATIONS AS THEY EXISTED ON JULY 1, 1999, OR BY SIMILAR METHODS OF DELIVERY.

#### 21-104. MIXED TRANSACTIONS: AGREEMENT TO OPT-IN OR OPT-OUT.

THE PARTIES MAY AGREE THAT THIS TITLE, INCLUDING CONTRACT-FORMATION RULES, GOVERNS THE TRANSACTION, IN WHOLE OR PART, OR THAT OTHER LAW GOVERNS THE TRANSACTION AND THIS TITLE DOES NOT APPLY, IF A MATERIAL PART OF THE SUBJECT MATTER TO WHICH THE AGREEMENT APPLIES IS COMPUTER INFORMATION OR INFORMATIONAL RIGHTS IN IT THAT ARE WITHIN THE SCOPE OF THIS TITLE, OR IS SUBJECT MATTER WITHIN THIS TITLE UNDER § 21-103(B) OF THIS SUBTITLE, OR IS SUBJECT MATTER EXCLUDED BY § 21-103(D)(1) ~~OR (2)~~ (1), (2), OR (3) OF THIS SUBTITLE. HOWEVER, ANY AGREEMENT TO DO SO IS SUBJECT TO THE FOLLOWING RULES:

(1) AN AGREEMENT THAT THIS TITLE GOVERNS A TRANSACTION DOES NOT ALTER THE APPLICABILITY OF ANY STATUTE, RULE, REGULATION, OR PROCEDURE THAT MAY NOT BE VARIED BY AGREEMENT OF THE PARTIES OR THAT MAY BE VARIED ONLY IN A MANNER SPECIFIED BY THE STATUTE, RULE, REGULATION, OR PROCEDURE, INCLUDING A CONSUMER PROTECTION STATUTE OR REGULATION. IN ADDITION, IN A MASS-MARKET TRANSACTION, THE AGREEMENT DOES NOT ALTER THE APPLICABILITY OF A LAW APPLICABLE TO A COPY OF INFORMATION IN PRINTED FORM.

(2) AN AGREEMENT THAT THIS TITLE DOES NOT GOVERN A TRANSACTION: