

Chairman Powell and Commissioners:

Thank you for affording the public the opportunity to comment on this vitally important proceeding.

The FCC's recent notice related to this matter claims that "As a result of its deliberations, the BPDG recently announced a consensus on the use of a "broadcast flag" standard for digital broadcast copy protection." Alas, while certain interests may have sought to portray the outcome of the group's meeting as a consensus, in fact there was not consensus among the group. As many accounts of the group's deliberations have shown, a substantial number of the participants had serious misgivings about the notion of forcibly "locking down" broadcast content. Because a consensus was not reached (and this just among the participants; many interested parties were not allowed seats at the table), it is not appropriate for the FCC to adopt the proposed scheme as if the parties had unanimously agreed to it.

It is also, not within the FCC's jurisdiction to impose such a scheme. While the FCC does regulate the use of the airwaves, its responsibilities and authority do not include enforcing copyrights or imposing restrictions upon the use of copyrighted material. (This responsibility has been delegated, by statute, to other agencies.)

Finally, the imposition of such regulations would fly in the face of the FCC's policy, as voiced by Chairman Michael Powell, of allowing free markets to guide the future of broadcasting and telecommunications. The "broadcast flag," and a mandate that equipment implement it, would not only impose government regulation upon manufacturers of audiovisual equipment; it would also allow non-governmental entities (in particular, the private parties who held the rights to the "broadcast flag" technology) to dictate who could manufacture equipment, what consumers could buy, and what all of us could view or record. By thus choking off free markets, the FCC would violate its own policies as well as doing a great disservice to the public as a whole.

Sincerely,

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