

Will the broadcast flag interfere with consumers ability to make copies of DTV content for their personal use, either on personal video recorders or removable media?

While the current broadcast flag proposal appears not to interfere with citizens' ability to record content, it sets us on a slippery slope that I believe will inevitably lead to such interference in the future. It may begin with a few single "premium" programs that the technology prevents from being copied: a special broadcast, a PPV event... but in this technology begins the path to more and more programming becoming un-copyable, which ultimately destroys citizens fair use time-shifting rights.

Would the digital flag interfere with consumers ability to send DTV content across networks, such as home digital networks connecting digital set top boxes, digital recorders, digital servers and digital display devices? Again, while the initial broadcast flag proposal requirements may not appear to interfere with this activity at present, I cannot imagine the proponents of the flag do not envision at some point the flag's purpose evolving into a means for regulation of citizen behavior.

Would a broadcast flag requirement limit the development of future equipment providing consumers with new options?

As my previous comments have suggested, the introduction of the broadcast flag represents the beginning of a policy that encircles and restricts the fair use rights of every American. This regulation, like many technological regulations, poses all kinds of problems when we consider the unknown future of digital technology development. It seems possible, if not likely, that this proposal in the future could act as a foot in the door to dramatic alteration of future equipment development.

What will be the cost impact, if any, that a broadcast flag requirement would have on consumer electronics equipment?

Whenever extra costs are introduced into a production process, those extra costs are historically passed on to consumers rather than absorbed into the industry's bottom line (see, for example, telephone universal service fee). In this case the cost being passed on to consumers - no matter how slight - is a cost they are bearing for limiting their own options. In essence, consumers will find themselves paying to surrender fair use rights. Even if this cost is minimal, it is unacceptable.

Other Comments:

The development of digital technology was originally hailed as a powerfully enabling step, a leap forward in progress that would give people the ability to shape their own environments in ways they never had been able to do before. However, the insistence on technologies like the broadcast flag and other digital rights management efforts are rapidly tilting the scales such that owners enjoy even stronger rights management than the authors of the first copyright laws ever could have imagined. Such excessive control, while preserving the historic profit margins of media companies, is wholly undemocratic. Media companies, while certainly entitled to not have their work victimized by copyright violation, are not entitled to enjoy continuing profits via outdated business models through expansion of their powers of copyright management. As long as copyright exists for a significant enough duration and is enforceable enough to provide even the slightest incentive for development of creative work, it functions

properly. As soon as it expands beyond that scope - providing the opportunities for enormous profit at the expense of every American's ability to experience, interact with, and build off of existing cultural material, it fails to act in a democratic way. It becomes un-American.