As a consumer of digital content, I have a grave concern about the proposed Broadcast Flag. I enjoy the flexibility and control that technology gives me. I can be more than a passive recipient of content; I can modify, create and participate. Technology currently gives me more choices by allowing me to record a television program and watch it later; clip a small piece of TV and splice it into a home movie; send an email clip of my child's football game to a distant relative; or record a TV program onto a DVD and play it at my friend's apartment. The broadcast flag seems designed to remove this control and flexibility that I enjoy.

Historically, the law has allowed for those not affiliated with creating content to come up with new, unanticipated ways of using it. For example, Sony invented the modern VCR -- a movie studio did not. (Sony did not own a movie studio at the time.) Diamond Multimedia invented the MP3 player -- a recording label did not. Unfortunately, the broadcast flag has the potential to put an end to that dynamic. Because the broadcast flag defines what uses are authorized and which are not, unanticipated uses of content which are not foreseeable today are by default unauthorized. If we allow the content industry to "lock in" the definition of what is and is not legitimate use, we curtail the ability for future innovation - unanticipated but legal uses that will benefit consumers.

I am a law-abiding consumer who believes that piracy should be prevented and prosecuted. However, if theoretical prevention comes at the cost of prohibiting me from making legal, personal use of my content, then the FCC should be working to protect all consumers rather than enable those who would restrict consumer rights. In the case of the broadcast flag, it seems that it will have little effect on piracy. With file-sharing networks, a TV program has only to be cracked once, and it will propagate rapidly across the Internet. So, while I may be required to purchased consumer electronic devices that cost more and allow me to do less, piracy will not be diminished. Law-abiding consumers will be punished, the pirates will not. Furthermore, the piracy networks in Asia will only be encouraged.

Beyond my rights, this issue has economic impact. The blatant greed of the entertainment industry represents what's worst about Americans. They opposed the VCR, which ultimately saved the movie industry. Their proposed actio nwill stifle innovation, hurt consumers, and as a rusule, hurt their incomes. I (and many of my friends) already penalize Hollywood's greed: We don't buy CD's from labels that do copy protection. If I can't play it in my car or on my computer, I don't want it, period. I can hear the same music for free on the radio, so I lose nothing, they lose the sale.

Please put an end to this. In closing, I urge you to require the content industry to demonstrate that its proposed technologies will allow for all legal uses and will actually achieve the stated goal of preventing piracy. If they cannot, I urge you not to mandate the broadcast flag. Should you or your staff desire to discuss this issue further, please contact me at the above email address.

Sincerely,

James A. Sanford, PE
CAPT US NAVY