

Dear FCC,

In writing this comment I was held back for a long time by an uncertainty about what I could say that you don't already know.

I'm sure you already know that the broadcast flag regulation would abolish Americans' freedom in an unprecedented way: we would be prohibited from making our own equipment to do a lawful job. Adding insult to injury, tinkering with a TV receiver would be labeled as "tampering".

I'm sure you are aware that there is already a project developing a free software package, GNU Radio, that will do this job. I'm sure you realize that people will finish GNU Radio in any case, in the US or abroad, and that millions of people will use it whether it is lawful or not, so that this regulation would commit the US government to an unending War on TV Receivers against its own people.

I'm sure you can imagine that once Hollywood gets this special power, other broadcasters will surely demand similar power. I'm sure you recognize that this would be a terrible blow to amateur radio.

The supposed purpose of the broadcast flag regulation is to encourage the adoption of digital TV broadcasting. Hollywood threatens to obstruct this transition unless you give them additional power over Americans. I'm sure you realize that adopting the broadcast flag regulation would constitute a surrender to a blatant act of bullying.

Although you must already know all that, I have one idea that may be new. There is a simple and easy way to achieve this goal while respecting Americans' freedom: to enact a copyright shelter for broadcasting movies on digital TV.

Congress can pass a law that once a movie has been licensed for broadcast on analog TV, this automatically licenses broadcasters to play it on digital TV. The fee could be adjusted proportionally for the size of market. Any other limitations in the license (exclusivity, geographical, number of times, or what have you) could be carried over from the analog TV license to the digital TV license in a reasonable way.

This solution maintains the political status quo--Hollywood will still get paid by broadcasters, and we will still have our freedom. It also fits the US legal tradition: copyright shelters have been used many times in the US to help new media get started.

So the question is simply a matter of what goals are worth aiming for. If your goal is to facilitate the switch to digital TV is important and preserve America as a land of freedom, the choice is clear. Reject the broadcast flag, recommend the copyright shelter approach to Congress, and keep our freedom safe.

Sincerely,

Richard Stallman

President, Free Software Foundation