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 purchase consumer electronic devices that cost more and allow me to do less, piracy will not be diminished. Speaking of costing more, the first CD I bought (in 1985!!) cost me $25, most prices now (sale prices aside) are hovering close to the $20 range, and these prices have increased over the last decade even as CD players are now commonplace in almost every hosehold in America. The cost of the media for reproducing CD'!
s has dropped as well, that's why people such as me can buy 100 blank CDs for $30-40 and these are used mostly for backing up my computer and program storage.

I would also like to remind the FCC that this same industry faught against the VCR when that first came out. They also faught against the cassette tapes figuring that people would no longer buy albums, well, we are still buying albums, however, they have been replaced mainly by the CD. I have many albums (as well as casettes) that I am converting to CD simply because the industry deams these recordings are "not big sellers" and I've already paid for the album once. I urge the FCC and Congress to take the Recording Industry Association of America's studies on pricay and CD burning with a grain of salt, after all, the RIAA funded a study to protect THEIR interests, not the consumer. To me, that is very biased, instead look to independant studies such as the Forester Research (http://msn.com.com/2100-1106-949717.html#talkback) study and also realize that spending is down in almost all industries over the last couple years.

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 (which they can't gaurantee 100% elimination of piracy), I urge you not to mandate the broadcast flag.

Thank you for your time,

Todd Kuhlman