

## **BROADCAST FLAG PROXIMITY CONTROL TALKING POINTS**

- MPAA supports 12 of the 13 technology applications to implement the Broadcast Flag, provided that the legal issues regarding enforcement and changes are properly resolved.
- TiVoGuard is the one technology MPAA cannot support, because it does not provide a sufficient basis to conclude that the technology will not permit substantial redistribution of broadcast programs outside the home. (It is important to note that the TiVo personal video recording devices now in consumer homes are not at issue here and these devices would not be affected by denial of the TiVoGuard application.)
- MPAA is not opposed in principle to technologies that provide remote access, but before the FCC approves such technologies it must carefully consider the policy issues raised by remote access and conclude that the technology will not harm local broadcast television. This conclusion cannot be reached on the record now before the FCC.
- The FCC should not rush to judgment on remote access technologies. Rather, it should approve the 12 applications that provide proximity controls, and deal with the one technology that does not provide such controls in a future proceeding in which remote access can be carefully assessed.
- TiVoGuard would permit broadcast programming to be redistributed to nine or more locations outside the home. These locations could be across town, across the country or across the globe. There would be no restrictions on who could receive the redistributed programming. They could be total strangers. The FCC has already concluded that one person redistributing DTV programs to millions would harm the public interest. Millions of TiVoGuard users redistributing DTV programming to nine or more other people in distant markets would similarly harm the public interest.