

**PROTECTING CONSUMER  
FAIR USE RIGHTS AND ADVANCING INNOVATION**

**CEA POSITION:** We must protect intellectual property while maintaining consumers' home recording rights and ability to use lawfully acquired media for noncommercial purposes such as time-shifting and place-shifting. In addition, digital rights issues should be subject to inter-industry resolution rather than government-imposed technology mandates.

**BACKGROUND:** Conflicts between consumers and content owners resulting from the migration to digital technology continue to generate controversy in the public policy arena. In addition, lawful innovators increasingly find themselves the targets of lawsuits brought by the content community. CEA has consistently opposed anti-consumer legislation that discourages innovation and restricts the lawful rights of consumers and innovators.

**CEA EVALUATION:** The Consumer Electronics Association (CEA)<sup>®</sup> promotes the following guiding principles with respect to intellectual property in the digital age:

- **Innovation and Content**  
We oppose piracy and support the intellectual property rights of copyright holders. However, we believe that copyright laws must be balanced to ensure that copyright holders' rights are protected while not unduly stifling innovation. It is essential that policymakers distinguish between "piracy"—i.e. the mass, unauthorized commercial reproduction of a copyrighted work — and noncommercial consumer conduct. We oppose approaches that would, under the guise of attacking piracy, impose disproportionate costs on the technology industry, hinder technological innovation, or limit consumers' fair use of content.
- **Fair Use**  
Fair use — the right of non-copyright owners to use copyrighted material for purposes of criticism, for purposes of display, for purposes of personal consumption, and so on — remains vital to consumers in the digital age. For example, consumers must keep the right to private, noncommercial home recording of TV or radio broadcasts, as well as the right to time-shift and place-shift lawfully acquired content. These basic home recording and piracy should not be confused. Home recording practices have nothing to do with commercial retransmission of signals, or unauthorized commercial reproduction of content
- **Advancing Innovation by Discouraging Needless Litigation**  
New and innovative digital technologies empower consumers to enjoy legally acquired content where, when and how they want. Unfortunately, many of these new technologies may never make it to market due to the chilling effect of potential statutory damage awards in the billions of dollars. We must pass legislation that works to reduce the risk of ruinous damages inflicted on lawful innovators, and restores needed balance to U.S. copyright law while ensuring that legislation that would further harm innovation is discouraged.
- **Anti-Circumvention**  
The anti-circumvention provision of the Digital Millennium Copyright Act (DMCA) makes decrypting a copyright protection scheme illegal, even if the purpose is to allow fair use of underlying material. For example, this language could make it illegal for a consumer to remove spyware placed on a computer by a "copy protected" CD. The DMCA should be

changed to ensure that no penalties arise from circumvention so long as no infringement occurs.

**OUTLOOK:** We expect intellectual property and fair use rights to be key issues in 2009. In general, we urge Congress to refrain from limiting fair use and to modernize copyright law through the passage of legislation such as H.R. 1201, the “Fair Use Act.”

For more information, please contact CEA at [publicpolicy@CE.org](mailto:publicpolicy@CE.org) or visit [www.CE.org/governmentaffairs](http://www.CE.org/governmentaffairs).