

PROTECTING CONSUMER HOME RECORDING RIGHTS

CEA POSITION: CEA believes in the protection of intellectual property while maintaining consumers' home recording rights, and ability to use lawfully acquired media for noncommercial purposes. In addition, CEA believes threatening 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 rights of consumers and innovators.

CEA EVALUATION: CEA promotes the following guiding principles with respect to intellectual property in the digital age:

- ***Innovation and Content***
Consumer electronics manufacturers oppose piracy, and support the intellectual property rights of copyright holders. However, it is important that copyright law's traditional balance between copyright holder rights and innovation be maintained. We also believe it essential that policymakers distinguish between "piracy"—i.e. the mass, unauthorized commercial reproduction of a copyrighted work—and noncommercial consumer conduct. CEA opposes approaches that would, under the guise of attacking piracy, impose disproportionate costs on the technology industry or hinder technological innovation.
- ***Fair Use***
Fair use - the privilege 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 consumer use of such materials in the digital age. For example, consumers should retain the right to private, noncommercial home recording of content originating as TV or radio broadcasts, as well as the right to time-shift and place-shift lawfully acquired content.
- ***Home Recording***
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.
- ***Warning Labels on "Copy Protected" Compact Disks***
All compact disks equipped with "copy protection" should carry clear, conspicuous and informative consumer warning labels.
- ***Anti-Circumvention***
The anti-circumvention provision of the Digital Millennium Copyright Act (DMCA), make 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 home recording rights to be a key issue in 2007. In general, we urge Congress to refrain from limiting fair use and encourage market-based solutions to home recording and digital rights management issues.

For more information, please contact CEA at publicpolicy@CE.org or visit www.CE.org/governmentaffairs.