

April 25, 2003

Via Email:

Re: **URGENT: House Bill 457 and Senate Bill 213 - OPPOSE**

Dear,

We are writing to express our opposition to House Bill 457 and Senate Bill 213. The legislation is cast as a communications service theft bill; however, its reach is far greater. The proposed bills limit citizens' rights, limit legal uses of commonplace consumer electronics (such as VCRs and computers) and stifle technological innovation and research.

The undersigned organizations represent citizens' and consumers' rights to use the technology and media they lawfully own. In this capacity, we are particularly concerned with the spread of overly broad technology laws that stymie the growth of new technologies and prevent the reasonable and legal activities of consumers.

Proponents of these bills assert that the proposed language *updates* the terms of the current laws to better prevent the theft of communications services and Internet piracy. Existing state and federal laws, however, already address these concerns. The proposed bills, in contrast, *broaden* statutory definitions, reaching into the home to control what kinds of devices consumers may use in conjunction with services for which they have legitimately paid. Consumers have never needed the "express authorization" of their cable or phone company before buying a new TV, VCR or PC – there is no reason to change that rule today.

Current state and federal laws already impose high fines and minimum jail terms for communications signal theft and copyright infringement. Specifically, Tennessee Code, sections 39-14-149 and 39-14-602 sufficiently address the theft and unlawful use of communications services and content. Supporters of House Bill 457 and Senate Bill 213 have provided no evidence showing any inadequacies in existing laws and they have failed to explain why such broad language is necessary. The Tennessee legislature should be wary of passing these bills without fully contemplating their true purpose and impact on citizens and technology.

The potential impact of this legislation is significant. The terms of these bills are so broadly and ambiguously defined that legal activities and technologies are threatened. For example, without express permission from the "service provider," everyday lawful activities could be outlawed or prohibited, such as:

- viewing paid-for television on multiple home TVs
- recording television on a VCR to view at a later time
- sharing a broadband connection among multiple home computers
- working from home by securely connecting to the office over the Internet

The ramifications also extend beyond citizens to manufactures, distributors and retailers because the use, distribution and sale of many consumer electronic devices and computer hardware and software could become illegal.

In addition, these bills implicate privacy and anonymous speech. For example, under House Bill 457 and Senate Bill 213, making anonymous communications to voice political views or report corporate misdeeds is a criminal offense. These bills would also make many encrypted business transactions illegal.

Lastly, to the extent that amendments may make certain uses of communications services criminal only if there is an “intent to defraud” on the part of the consumer or manufacturer, that change does not resolve the problems discussed above. Regardless of this potential change in the burden of proof, these bills would still enable service providers to harass law-abiding consumers, many of whom will not be able to afford a lawyer to combat these charges. Moreover, this change still does not address the overarching question raised in this letter: why is this law necessary?

The undersigned groups support efforts to prevent the theft of communications services, but House Bill 457 and Senate Bill 213 are thinly veiled attempts to criminalize activities well outside the scope of signal theft. Please protect the rights of citizens and support the creation of new technologies. We strongly urge you to oppose House Bill 457 and Senate Bill 213.

Sincerely,