From: [participant]@eff.org
Sent: Thursday, May 09, 2002 1:56 PM
To: 'bpdg-tech@list.lmicp.com'; [...]
Cc: eff-ip@eff.org
Subject: BPDG: Comments on exsiting draft requirements

<[participant]@eff.org>
To: Broadcast Protection Discussion Group and co-chairs

From: Electronic Frontier Foundation, Open Source Initiative, Linux Journal,
O'Reilly and Associates, Vereniging Open Source Nederland, Ximian, Inc., The
GNOME Foundation, Free Software Foundation, Bob Young

Re: Comments on exsiting draft requirements

Our comments are based on the "Requirements for the Protection of Unencrypted Digital
Terrestrial Broadcast Content Against Unauthorized Redistribution, Discussion Draft,
April 25, 2002".

We object to the basic thrust of the BPDG draft Compliance and Robustness Rules.
Manufacturers and the public, including hobbyists and individual technologists, have a
basic right of inquiry, to access any unencrypted signal and to process it as they wish.
No technological restrictions on the ability to process, record, transmit, play, or
otherwise handle signals should be created, promulgated, or perpetuated.

In particular:

  "Covered Product" means a product (whether a physical device, software
  or combination thereof) that is required under Section X.2 to comply
  with the Compliance Requirements, and to be manufactured in accordance
  with Robustness Requirements, prior to being sold or distributed.
  ...

  X.2

  [Note to BPDG: it is assumed for purposes of technical evaluation that
  the instrument promulgating the Compliance Requirements and Robustness
  Requirements below would include provisions that specify the
  circumstances under which the Compliance Requirements and Robustness
  Requirements would apply. This Section X.2 is a placeholder for such
  provisions. ...]

We object to the idea that products should EVER be required to follow the Compliance
Requirements or the Robustness Requirements created by this ad-hoc group of self-
interested parties.

We see no valid justification for making such a requirement. We see no reasonable means
of enforcing such a requirement without violating basic rights foundational to our
society, such as freedom of inquiry, robust public debate, and freedom of the press.

  X.3 Compliance Requirements: Unscreened Content.
  (a) A Covered Product shall not pass, or direct to be passed, Unscreened
      Content to any output except ...
  (b) A Covered Product shall not record or cause the recording of
Unscreened
      Content in digital form unless such recording is made using one of the
      following methods ...

We believe that Covered Products should have no technological restrictions on what they
can do with Unencrypted Digital Terrestrial Broadcast Content (which all Unscreened
Content is).

We further believe that Covered Products should have no obligation to "Screen"
Unencrypted Digital Terrestrial Broadcast Content.

We believe that section X.3 should be deleted in its entirety.

This is a substantive disagreement with the draft that claims to represent a consensus
of the membership.

    X.4 Compliance Requirements: Marked Content.
    (a) A Covered Product shall not pass, or direct to be passed, Marked
Content
        to any output except ...
    (b) A Covered Product shall not record or cause the recording of Marked
        Content in digital form unless such recording is made using one of
        the following methods ...

We believe that Covered Products which do choose, for whatever reason, to examine the
Broadcast Flag, should have no technological restrictions on what they can do with
Unencrypted Digital Terrestrial Broadcast Content (which all Marked Content is).

We believe that section X.4 should be deleted in its entirety.

This is a substantive disagreement with the draft that claims to represent a consensus
of the membership.

    X.5 [Audio. Except as otherwise provided in Sections X.3(a) or
    X.4(a), Covered Products shall not output the audio portions of
    Unscreened Content or of Marked Content in digital form except ...

We believe that Covered Products should have no restrictions on what they can do with
the audio portions of Unencrypted Digital Terrestrial Broadcast Content.

We believe that Section X.5 should be deleted in its entirety.

This is a substantive disagreement with the draft that claims to represent a consensus
of the membership.

    X.6 Integrated Add-in Covered Products. Where a Covered Product
    passes Unscreened Content or Marked Content from such Covered Product
    to another product ... it
    shall so pass such content [(a) protected by an Authorized Digital
    Output Protection Technology, in accordance with any obligations set
    out on Table A applicable to such Authorized Digital Output Protection
    Technology or (b)] using a Robust Method. Neither Unscreened Content
    nor Marked Content may be so passed in unencrypted, compressed form
    via a User Accessible Bus.

We believe that Covered Products should have no restrictions on how they pass
Unencrypted Digital Terrestrial Broadcast Content to other products.

We believe that Section X.6 should be deleted in its entirety.

This is a substantive disagreement with the draft that claims to represent a consensus
of the membership.

    X.7 Robustness: Construction

    (a) Covered Products shall be manufactured in a manner clearly
    designed to effectively frustrate [User] attempts to modify such
    Covered Products ...

We believe that it is desirable for Covered Products to be manufactured such that users
may modify the Covered Products. We believe that innovation, technical progress, and

user satisfaction are all improved by user-modifiable products. Such products should never be foreclosed from entering the market.

We believe that Section X.7 should be deleted in its entirety.

This is a substantive disagreement with the draft that claims to represent a consensus of the membership.

  X.8 Robustness: Data Paths. Within a Covered Product, neither
  Unscreened Content nor Marked Content shall be present on any User
  Accessible Bus in unencrypted, compressed form.

We believe that it is desirable for Covered Products to present Unencrypted Digital Terrestrial Broadcast Content on User Accessible Buses. This is the standard practice in the computer and consumer electronics industry, and the heart of interoperability of products from multiple vendors.

We believe that Section X.8 should be deleted in its entirety.

This is a substantive disagreement with the draft that claims to represent a consensus of the membership.

  X.9 Methods of Making Functions Robust. Covered Products shall be
  manufactured using at least the following techniques ...

We believe that Covered Products should be able to be manufactured using any techniques desired by the manufacturer.

We believe that Section X.9 should be deleted in its entirety.

This is a substantive disagreement with the draft that claims to represent a consensus of the membership.

  X.10 Robust Methods. Where a Covered Product passes, or directs to be
  passed, Unscreened Content or Marked Content from such Covered Product
  to another product pursuant to Sections X.3(a)(3), X.3(a)(4),
  [X.4(a)(3),] X.4(a)(4) or X.6(b), it shall do so using23 [a method
  designed to ensure that such content, in any usable form, shall be
  reasonably secure from being intercepted, redistributed or copied when
  being so passed to such other product]. Where a Covered Product
  passes, or directs to be passed, Unscreened Content or Marked Content
  to an output pursuant to Sections X.3(a)(3), X.3(a)(4) or X.4(a)(3),
  it shall do so using [a method that ...technical criteria to be
  specified] [an Authorized Digital Output Protection Technology or
  other means that provides technological protection against
  unauthorized redistribution of such content that is at least as
  effective as such technological protection provided by any one of the
  Authorized Digital Output Protection Technologies].

We believe that when a Covered Product passes Unencrypted Digital Terrestrial Broadcast Content to another product, it should be able to use any method.

We believe that Section X.10 should be deleted in its entirety.

This is a substantive disagreement with the draft that claims to represent a consensus of the membership.

  X.11 Level of Protection. The content protection requirements set
  forth in the Compliance Requirements and the requirements set forth in
  Sections X.7(c) and X.8 shall be implemented in a reasonable method so
  that they ...

  (a) Cannot be defeated or circumvented [by a User] merely by using

general-purpose tools or equipment that are widely available at a
      reasonable price, such as screwdrivers ...

We believe that Covered Products should be able to be modified using general-purpose
tools that are widely available at a reasonable price, such as screwdrivers. User-
accessible products are desired by the public for their flexibility, lower repair costs,
and ease of modification. Products deliberately built with parts that have unreasonable
prices, special-purpose tools, or widely-unavailable parts or tools are more expensive,
harder to maintain, and less flexible.

   (b) Can only with difficulty be defeated or circumvented using
professional
         tools or equipment, such as logic analyzers ...

We believe that whether Covered Products can easily be reverse-engineered by competent
professional engineers should be a decision made by each manufacturer, based on their
analysis of their competitive situation. Some makers of Covered Products do not wish to
hide the internal operation of their Products. There should be no requirement that they
do so.

We believe that Section X.11 should be deleted in its entirety.

This is a substantive disagreement with the draft that claims to represent a consensus
of the membership.

The Electronic Frontier Foundation has participated fully in the discussions of the
Broadcast Protection Discussion Group. It has shared its concerns and ideas with the
group, and brought in outside evidence to support its positions. It has encouraged
other interested parties to join the discussions. It has sought to have its issues
explored and addressed by the Discussion Group and by the broader society from which the
Discussion Group is drawn.

Our issues have been discussed, but have not been reflected in the drafts prepared by
the co-chairs. There appears to be some support for some or all of our positions among
other members of the Discussion Group. We perceive that no consensus exists on these
issues. We believe that the draft report is not only incorrect in failing to report the
lack of consensus, but that it is part of a deliberate attempt to force a particular
outcome on the so-called consensus process.

      Shari Steele
      Executive Director
      Electronic Frontier Foundation

      Brad Templeton
      Chairman
      Electronic Frontier Foundation

      Seth Schoen
      Cory Doctorow
      Fred von Lohmann
      Delegates to BPDG
      Electronic Frontier Foundation

      Eric S. Raymond
      President
      Open Source Initiative

      Doc Searls
      Senior Editor
      Linux Journal

      Tim O'Reilly
      Founder

O'Reilly and Associates

Pieter Hulshoff
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Miguel de Icaza
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