

Congress of the United States
Washington, DC 20515

September 29, 2005

The Honorable Fred Upton, Chairman
Subcommittee on Telecommunications
and the Internet
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Edward J. Markey, Ranking Member
Subcommittee on Telecommunications
and the Internet
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton and Ranking Member Markey:

We are writing to express our support for reinstating the broadcast flag ruling adopted by the Federal Communications Commission (“FCC”). Reinstatement of the broadcast flag is essential in order to ensure the successful transition to digital television and to preserve localism and the continued availability of free, over-the-air television by conferring upon over-the-air programming the same protection against unauthorized redistribution over the Internet that programs distributed on cable and satellite services are given today.

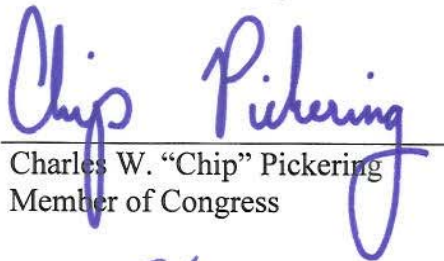
You will recall that in March 2001 you joined in sending a letter to then-Chairman Michael Powell of the FCC urging adoption of a technology commonly referred to as the “broadcast flag.” The broadcast flag protects free, over-the-air digital television programming from unauthorized redistribution over the Internet without restricting the consumer’s ability to copy programming or enjoy it anywhere within a personal at-home network.

In November 2003, the FCC adopted a ruling requiring implementation of the broadcast flag as of July 1, 2005. In May 2005, the United States Court of Appeals for the D.C. Circuit held, without addressing the substance of the matter, that the FCC did not have the authority under current law to adopt the rule. Significantly, prior to adoption of the broadcast flag rule by the FCC, such a rule was endorsed in principle by a large and diverse group of computer technology, consumer electronics, and video content companies. In addition, no device manufacturer contested the rule following its adoption by the FCC. In fact, after the court’s jurisdictional decision, several major device manufacturers called on Congress to reinstate the rule.

This technology is critical for two reasons. First, it is an important element for a successful transition to free, over-the-air digital television, as program producers will naturally be reluctant to license their high value programs for digital broadcast distribution without protection from widespread acts of infringement over the Internet. Therefore, local broadcast stations may wind up without access to the quantity and quality of digital programming needed to attract and retain viewers in this ever growing competitive media market.

Second, protecting the digital broadcast signal with the broadcast flag will help preserve localism and free, over-the-air television by placing conventional broadcasters on a level playing field with cable and satellite services. Congress has a long-standing commitment to free, over-the-air television. However, if program producers cannot be assured that programming licensed to broadcast television is protected, these producers will inevitably move their programming over to channels where protections are stronger, jeopardizing the long term financial health of free, over-the-air television. This is bad for both localism and consumers who depend upon free, over-the-air television.

The timely preservation of free, over-the-air television is essential to a smooth and timely transition to digital television, and the implementation of the broadcast flag plays a vital role in this undertaking. We urge you to support the prompt enactment of narrowly-crafted legislation that will reinstate the broadcast flag ruling adopted by the FCC. We look forward to working with you on this very important issue. Thank you.



Charles W. "Chip" Pickering
Member of Congress



Edolphus Towns
Member of Congress



John Shimkus
Member of Congress



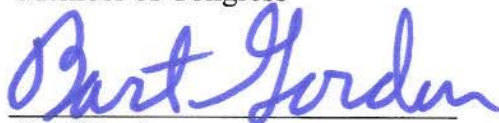
George Radanovich
Member of Congress



Mike Ferguson
Member of Congress



Marsha Blackburn
Member of Congress



Bart Gordon
Member of Congress



Mary Bono
Member of Congress



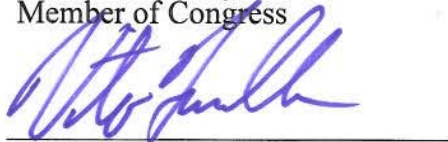
Lee Terry
Member of Congress



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Member of Congress