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From: **Home Recording Rights Coalition**

One Pager On: **Digital Rights Management: Whose Rights Are Being Managed?**

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CONGRESS SHOULD RESIST EFFORTS TO MANAGE CONSUMER RIGHTS.

Content owners increasingly seek to manage and limit consumer rights through unilateral legislative and regulatory initiatives. Congress should ensure that longstanding and reasonable consumer expectations to enjoy the products they have purchased are preserved, and that consumer electronics and information technology companies continue to have the freedom to design exciting new products.

Transition to High-Definition Television (HDTV). Over 2.5 million consumers have purchased HDTV monitors and integrated television sets. Some content owners are seeking restrictions on the ways consumers can use these sets in the privacy of their homes. They are pushing proposals giving themselves the ability to select which outputs from a set-top box or a recorder would be turned off, on a program-by-program basis, without consent of the consumer in whose home such control would be exercised. They also are seeking the ability to limit consumers to viewing a picture with an inferior resolution (a “downres’d” picture), and unnecessarily to degrade the value of devices consumers have already purchased in good faith, all under the guise of stopping “piracy.” Congress should refrain from such impositions on consumers, and demand that the FCC do so as well.

“Copy-Protected CDs”. Ostensibly to stop consumers from engaging in “piracy,” some record companies are beginning to sell discs that look like traditional audio compact discs, but don’t play in computers, DVD players, and other consumer electronics products. Congress should adopt legislation requiring record companies selling or advertising these non-standard music discs to provide adequate consumer labels and to establish procedures to assist consumers who find they can’t play them on ordinary home devices.

Hollings-Stevens Bill And Any House Counterparts. Congress should reject heavy-handed bills that would put bureaucrats in charge of picking technology winners and losers, and which would outlaw many popular products that don’t integrate undefined “anti-piracy” measures. Instead, Congress should leave the initiative to the private sector to establish appropriate technologies that protect content while preserving consumers’ legitimate expectations as to home recording and other reasonable and customary practices.

Useful DRM Precedent. In thinking about any legislation that would limit consumer choice and manufacturer freedom to innovate, Congress should look at section 1201(k)(1) of the DMCA as a model. It contains explicit “encoding rules” that limit when content owners may block or restrict copying so as to preserve long-standing consumer expectations. By preserving consumer expectations and providing content owners with specific legal support for the use of DRMS, section 1201(k) strikes the appropriate balance that should serve as a template for future legislation.