

**From: Software & Information Industry Association**  
**Title: Concerns With S. 2048, the Consumer Broadband and Digital Television Promotion Act**  
**Contact: Keith Kupferschmid, kkupfer@siia.net**  
**202-789-4442**



The Software & Information Industry Association (SIIA) and its predecessor organization, the Software Publishers Association, have been fighting digital piracy longer than any other trade association in the world. Based on our 16 years of combating piracy, we believe that S. 2048, the Consumer Broadband and Digital Television Promotion Act, is bad policy and establishes unwarranted and intrusive level of Government regulation into the development of technologies.

- Overbreadth of Coverage: The bill is not limited in its application or effect to broadband technology or digital television. It applies to just about all hardware and software and covers PCs, PDAs, and consumer electronic products irrespective of whether these products connect to broadband or digital television. It also covers all content by failing to distinguish between audiovisual content and all other content.
- Government Regulation In This Area Is Intrusive and Inappropriate: The bill requires the government to be involved in every step of the process and gives the Government the ultimate say in determining what Digital Rights Management (DRM) standards will be adopted and how they will be implemented today and into the future. The marketplace – not the Government -- should determine who the winners and the losers in the DRM space are. Only through competition in the DRM industry and the stakeholders working together to develop mutually-acceptable standards for DRM solutions to the piracy problems will we get the best DRM technological solutions.
- Government Regulation Is Too Unwieldy and Slow: The Government decision making process is inherently ill-equipped to effectively address the types of issues raised in the piracy/broadband debate. The process is slow and unwieldy. The Government will not be able to keep pace with the rapid changes in technology – virtually assuring that any standard the Government codifies is outdated the moment it becomes law.
- Marketplace Solutions Ignored: The high-tech industry has worked with the content community to reach consensus on ways to address similar piracy problems in the past. Given sufficient time, there is no reason to think that the stakeholders cannot again reach consensus on ways to combat the specific technological problems identified by the content community. There is no one-size-fits-all solution. Only through DRM companies competing and working together with content companies can effective solutions be found. To the extent there is a role for the Government here, the role should be only to promote confidence that technological solutions agreed to by the stakeholders can be enforced to combat piracy problems.
- Prevents Copyright Owners from Using Technology to Fully Protect their Works: The bill makes it illegal for copyright owners to use technological protection to prevent lawful recipients from making “personal use” copies even when there is a legitimate purpose for using such technological protections, such as to enforce agreed upon contract terms or to protect trade secrets. It would also make it illegal for copyright owners to use technological protections to prevent lawful recipients from making “personal use” copies even when the making of the copy is not a fair use or would otherwise violate the Copyright Act.
- Other Problems with S. 2048: The bill is riddled with other significant problems, such as ambiguities in terminology, including “open source code,” and it fails to adequately account for legacy hardware, software and content.