We aren't all pirates

Anti-piracy proposals before Congress could limit innovation and legal uses of technology.

July 10, 2006

THE INTERNET AND DIGITAL technology have been both a blessing and a curse for the entertainment industry, opening new opportunities for selling music and video but also fueling rampant global piracy.

To attack the latter problem, industry lobbyists are pressing Congress to adopt at least five different proposals that would give them more control over their works as they flow through new digital pipelines into living rooms and portable devices. But these measures, like the technologies they would affect, have a hard time distinguishing between illicit actions and legitimate ones.

The bills would pressure device makers and service providers to limit or eliminate features from some products, such as the ability to record individual songs off satellite radio. In essence, tech companies would have to alter what they are selling to safeguard the entertainment industry's wares.

Protecting intellectual property is a legitimate goal for Congress — after all, the Constitution called on Congress to give authors and inventors exclusive rights "to promote the progress of science and useful arts." The task has grown more urgent with the emergence of an Internet-fueled global information economy. But what the entertainment industry is seeking in this year's proposals isn't merely protection from piracy; it's after increased leverage to protect its business models.

That's why lawmakers must bear in mind the balance needed between copyright holders' interests and the public's, something Congress has not done well lately. In 1998, it gave copyright holders broad power to block legitimate uses of works, even those in the public domain, through the use of electronic locks that impede copying of digital products. And that same year, it prolonged the public domain's starvation diet by extending copyrights an additional 20 years, to 70 years beyond the death of the creator.

The movie and music industries have similar interests, but their agendas this year are distinct. The major studios want to alter digital TV receivers, recorders and home networks to stop shows from being redistributed indiscriminately online — a proposal that has won grudging support from some consumer-electronics and high-tech firms. They also want to redesign computers, set-top boxes and other products to ensure that the limits placed on digital videos are not removed when the data are converted from digital to analog. This approach could deter people from making a permanent copy of a pay-per-view movie, but it also could make it hard for digital movie buyers to create backup copies or transfer videos to portable players.

The music industry, meanwhile, is focusing its fire on satellite and digital radio services that make it easy for listeners to record and save individual songs. Those recorders don't fuel piracy, given that federal law already requires them to include a form of anti-piracy technology. Instead, a more immediate effect of the industry-backed proposals would be to give labels and music publishers more control over listeners' ability to record broadcasts, while helping them collect more money from XM, Sirius and other digital music businesses.
Clearly, the industry-backed proposals would do more than just defend copyrighted works from pirates. They also would impinge on devices that have legitimate uses and steer the development of technology, cutting off some innovation. As they weigh the entertainment industry's pleas, lawmakers shouldn't assume all consumers are bootleggers and every digital device is a hand grenade aimed at Hollywood.