



# NEWS

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**Federal Communications Commission**  
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**Washington, D. C. 20554**

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See *MCI v. FCC*, 515 F.2d 385 (D.C. Circ. 1974).

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FOR IMMEDIATE RELEASE  
August 4, 2004

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## **FCC APPROVES DIGITAL OUTPUT PROTECTION TECHNOLOGIES AND RECORDING METHOD CERTIFICATIONS**

Washington, DC – The Federal Communications Commission (“FCC”) today adopted a Report and Order (“Order”) approving thirteen digital output protection technologies and recording methods under the evaluative criteria established in the *Digital Broadcast Content Protection Report and Order* (“Broadcast Flag Order”), subject to certain conditions. In the Broadcast Flag Order, the Commission adopted a redistribution control content protection system, also known as the “broadcast flag,” to protect digital broadcast television from the threat of mass, indiscriminate redistribution while protecting consumers' use and enjoyment of digital broadcast content. Today's Order finds that each technology as approved is appropriate for use in DTV reception equipment to give effect to the broadcast flag.

The Order states that once a particular content protection technology or recording method has been approved under the interim process, such approval remains valid unless: (1) the underlying technology or its license terms have been altered in a manner that triggers the FCC's change management oversight, or (2) the approval is revoked pursuant to Section 73.9008(e) of the Commission's rules. The Order also specifies that the FCC's review of these technologies extends only to their suitability in protecting digital broadcast television content as a part of the redistribution control system established in the Broadcast Flag Order. Finally, the Order provides that FCC review and approval of these technologies will be made on a transport-by-transport or media-by-media basis, given the significant technical and licensing changes that can result when a technology is mapped to a new transport or media.

The Order reiterates that the Commission's goal in the Broadcast Flag Order was to prevent the indiscriminate redistribution of digital broadcast television content. As such, the Order does not require proximity controls as an additional obligation where other reasonable constraints sufficiently limit the redistribution of content. Therefore, the Order does not require the use of localization constraints in connection with the SmartRight and TiVoGuard technologies since they employ different combinations of device limits, interactive device authentication, and affinity-based mechanisms to restrict redistribution.

On the technical side, the FCC finds that sufficient evidence has been presented demonstrating that each digital output protection technology and recording method, except for DTCP over Bluetooth, is technically sufficient to adequately protect digital

broadcast television content from indiscriminate redistribution. The FCC also examines the licensing terms associated with each technology and concludes that an FCC oversight role over interoperability and change management matters is appropriate. With respect to the licensing of intellectual property, the Order concludes that the Commission should not adopt one approach over another. As flag-compliant devices are introduced in the marketplace, however, if such license terms are used in combination with market power in an anti-competitive manner, the Order explains that any concerns should be brought to the Commission or the relevant antitrust authorities, or can be addressed through private enforcement action.

Specifically, today's Order approved the following thirteen digital output technology and recording methods:

- MagicGate Type-R for Secure Video Recording for Hi-MD Hardware  
(Sony Corporation)
- MagicGate Type-R for Secure Video Recording for Memory Stick PRO Software  
(Sony Corporation)
- MagicGate Type-R for Secure Video Recording for Hi-MD Software  
(Sony Corporation)
- MagicGate Type-R for Secure Video Recording for Memory Stick PRO Hardware  
(Sony Corporation)
- SmartRight (Thomson, *et al*)
- Vidi Recordable DVD Protection System  
(Philips Electronics North America and Hewlett-Packard Company)
- High Bandwidth Digital Content Protection  
(Digital Content Protection, LLC)
- Content Protection recordable Media for Video Content (4C Entity, LLC)
- TiVoGuard Digital Output Protection Technology (TiVo Inc.)
- Digital Transmission Content Protection  
(Digital Transmission Licensing Administration)
- Helix DRM Trusted Recorder (RealNetworks, Inc.)
- Windows Media Digital Rights Management (Microsoft Corporation)
- D-VHS (Victor Company of Japan (JVC))

Action by the Commission, August 4, 2004, by Report and Order (FCC-04-193).  
Chairman Powell, Commissioners Abernathy, Copps, and Adelstein with Commissioner Martin approving in part and concurring in part. Commissioner Martin issuing a separate statement.

Docket 04-55

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