

The Induce Act

Q:

What do consumer groups, independent musicians, educators, librarians, conservative think tanks, public interest groups, venture capitalists, the technology community, the *Wall Street Journal*, the *New York Times* and the *San Jose Mercury News* have in common?

A:

They all oppose the Induce Act (S. 2650).

The Inducing Infringement of Copyrights Act of 2004 (the "Induce Act") stands as the biggest threat to technology, innovation and consumer rights in 20 years.

The bill creates a new action for "inducing" a copyright violation, destroying the 20-year Supreme Court Betamax protection for innovators. The legislation likely will increase lawsuits against technology makers and sellers based on what they "intended" when they advertised or sold product.

Average consumers could be held liable simply for giving a friend instructions on how to burn a CD onto a computer or sharing a copy with a single friend or relative.

The Induce Act would chill innovation and undermine established principles of fair use. That is why it has produced broad and diverse opposition:

“The bill's standard of inducement is so subjective that it would chill technological innovation, severely restrict consumer choice in the marketplace and create a whole new class of lawsuits for predatory trial attorneys.”

– The American Conservative Union, September 27, 2004

“The bill is overbroad, because it regards almost any action that leads to infringement to be a potential offense even if the person who engages in the act never intended to cause infringement.”

– Gigi B. Sohn, President Public Knowledge, June 23, 2004

“The chilling effect that a law like this would have on innovation cannot be underestimated.”

– Les Vadasz, former director and executive vice president, Intel. *The Wall Street Journal*, July 21, 2004

“[S.2650] is so loosely worded that it could threaten a host of legal information-sharing practices and technologies. That includes everything from the iPod to automatic online translation . . . this overreaching bill would have deeply chilling effects on technological innovation.”

– *New York Times* editorial, August 17, 2004

“[S.2560] will increase the risk that colleges and universities will face claims of infringement... These new risks threaten to chill education and the advancement of knowledge.”

– American Council on Education, Association of American Universities, National Association of State Universities and Land Grant Colleges, July 22, 2004 letter

“The Induce Act is the legislative equivalent of trying to rid a house of termites by burning it to the ground. One can only imagine the flood of lawsuits... and the resulting cost burden on the technology sector this legislation would create.”

– The National Taxpayers Union, September 6, 2004 letter

“While [the Induce Act] wouldn't make much of a dent in the Internet piracy problem it's designed to solve, it would unleash a wave of frivolous lawsuits... A bad idea could become bad law.”

– *Wall Street Journal* editorial, August 10, 2004

“[The Induce Act] is in no way confined to file sharing... The chilling effect on the American economy would be substantial.”

– Competitive Enterprise Institute, July 21, 2004

“Compromising property rights and encouraging, predatory, costly litigation is not a conservative position.”

– The American Conservative Union

“The Betamax decision has made possible an explosion of inventions, from MP3 players to CD burners. By undermining the Betamax decision, [S.2650] could threaten current and future technologies.”

– *The San Jose Mercury News* editorial, July 14, 2004, August 4, 2004 letter

“How could anyone run a business, or attract investors, if this is the standard by which their product decisions will be assessed after the fact? How could any business avoid a jury trial over any product in which any copyrighted work is recorded or transmitted?”

– Gary Shapiro, CEO of Consumer Electronics Association, before Senate Judiciary Committee, July 22, 2004



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