

**MEHLMAN DEFENDS GOVT. INTELLECTUAL PROPERTY POLICIES**

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A high-ranking Commerce Dept. official held his own late Wed. against Internet technology experts who challenged his defense of intellectual property protections. "People deserve reimbursement" for their creative work, said Bruce Mehlman, the Commerce Dept.'s asst. secy. -technology policy, on a panel at a **Supernova** technology conference in suburban Washington sponsored by Pulver.com. When a member of the audience justified file sharing on the basis that it was not fair to turn a successful technology into a "federal crime," the audience clapped. However, Mehlman responded that he assumed the speaker wasn't suggesting a similar stance on patents: "People need to feed their families, they expect to be paid for their intellectual property."

Another audience member said it wasn't fair that there was an effort to protect copyright holders "to perpetuity" rather than seek a specific time limit. Mehlman asked whether the speaker was saying that policy was "so extreme no one should honor it." He said he didn't think "the average 16-year-old" file sharer would think about time limits on copyrights before copying material and he doubted the 16-year-old would decide to wait until he was 30 when the copyright ran out. "It's a balancing act" but "I don't believe it is unreasonable to protect intellectual property," Mehlman said. The real issue is whether there should be limits, he said.

Mehlman said he did agree that rather than being mandated by the govt., the solution should be market-based "protective technologies" such as the broadcast flag, which could "give people what they want" without harming creators. "I don't think this will be solved in Washington," he said. Mehlman said he did think enforcement was needed, along with education. Asked about the effect on technology of the FCC's Triennial UNE Review, Mehlman quipped that he heard the High Tech Broadband Coalition "is getting everything they asked for" but maybe "next time they should ask the FCC to put out an order," a reference to the fact that the FCC voted on the UNE order 4-1/2 months ago but the text hasn't been issued yet.

Mehlman and other members of the panel urged those in the technology business to become more involved in these issues. "The content community effectively is speaking with 1, 2, 3 voices [but] the technology industry never spoke with the same voice" on issues such as digital rights management, he said. Gigi Sohn, pres. of Public Knowledge, said, "The fractured-ness [of tech groups] really hurts." She said "the technology industry has laid down and died on broadcast flag." The technology industry was clear in its opposition to a bill sponsored last session by Sen. Hollings (D-S.C.) but it hadn't focused on the broadcast flag, a "Hollings light" measure that has similar results, she said. Asked which organizations technologists should lobby, Mehlman said "go everywhere," while Legg Mason analyst Blair Levin said state regulators had an "increasingly important role" that was "underappreciated."

A panel of FCC officials said earlier Wed. that a proposal by ex-FCC Chmn. Reed Hundt to subsidize fiber to the home throughout the country would need congressional action. Hundt said in a speech Tues. that there should be a direct taxpayer subsidy to wire homes for broadband connections. Such costs could be offset by phasing out universal service support for voice service and requiring broadcasters to pay for their DTV spectrum, he said. Peter Tenhula, dir. of the FCC's Spectrum Policy Task Force, said the idea "deserves attention and debate if it ever got through Congress." Robert Cannon of the FCC's Office of Strategic Planning said that would be a good "green field idea" if starting from scratch. However, along with technical solutions, political and market solutions were needed, he said. Barbara Esbin, assoc. chief of the FCC Media Bureau, also pointed out that the DTV program was designed so broadcasters would give back some of their spectrum for other uses. Scott Marcus, senior FCC adviser for Internet technology, said he also wasn't sure "if the economics work" because it was "not clear that people need that amount of bandwidth yet."

The FCC panel also urged the technology experts in the audience to interact more with policymakers. "We don't hear a lot from folks like you," said Rob Tanner, legal adviser in the FCC Wireline Bureau. More interaction "would go a long way toward giving us a real-world understanding in an unfiltered way." Esbin said that, for example, there had been a remarkable lack of contact from the ISP community on the cable broadband issue. She recommended that the industry arrange meetings occasionally to just "let us know what you're doing." Tenhula said it was very useful to attend trade shows to "see what the technology looks like that we regulate." -- Edie Herman

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