



U.S. SENATE COMMITTEE ON

Commerce, Science, and Transportation

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**Statement of Chairman Ernest F. Hollings
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TODAY WE EXAMINE THE ROLE GOVERNMENT SHOULD PLAY TO ASSIST THE PRIVATE SECTOR IN SOLVING COPYRIGHT PROTECTION PROBLEMS THAT ARE STALLING BOTH BROADBAND ADOPTION AND THE DIGITAL TELEVISION TRANSITION.

WITH THE EXCEPTION OF RURAL AMERICA AND SOME UNDERSERVED AREAS, THERE IS NO BROADBAND AVAILABILITY PROBLEM; WE HAVE A DEMAND PROBLEM. 80% CAN GET IT, ONLY 10-12% TAKE IT. MOST AMERICANS DON'T WANT TO PAY \$50 A MONTH FOR FASTER ACCESS TO EMAIL. IF MORE CONTENT WERE AVAILABLE ONLINE, CONSUMERS WOULD COME.

BUT THERE IS ALMOST NO LEGAL, HIGH QUALITY CONTENT AVAILABLE ON THE INTERNET. WHY? BECAUSE THERE IS NO SINGLE, OPEN STANDARD PROVIDING TECHNOLOGICAL PROTECTION TO COPYRIGHTED PRODUCTS TO GIVE CONTENT OWNERS THE CONFIDENCE TO PLACE THEIR PREMIUM CONTENT ONLINE. THE SAME IS TRUE FOR DIGITAL TELEVISION, WHERE PIRACY DETERS PROGRAMMERS FROM PUTTING DIGITAL CONTENT OVER THE AIRWAVES. IN THAT REGARD, WE ALSO NEED TO DO SOMETHING TO SOLVE THE CURRENT CABLE COMBATIBILITY PROBLEM, BUT THAT IS PROBABLY A TOPIC FOR ANOTHER HEARING. TODAY WE EXAMINE COPYRIGHT PROTECTION ISSUES IN A DIGITAL AGE.

AMERICA'S CREATIVE ARTISTS DESERVE PROTECTION. OUR COPYRIGHT INDUSTRIES ARE AMONG OUR GREATEST ECONOMIC AND CREATIVE ASSETS. THE FRAMERS RECOGNIZED THAT INNOVATION AND CREATIVITY WAS INSTRUMENTAL TO OUR COUNTRY'S ECONOMIC HEALTH WHEN THEY EMPOWERED CONGRESS IN THE CONSTITUTION TO PROTECT COPYRIGHTED PRODUCTS.

AMERICA HAS HAD COPYRIGHT LAWS ON THE BOOKS SINCE THE CONSTITUTION. BUT IN AN ERA WHEN PRODUCTS ARE DELIVERED DIGITALLY, THE COPYRIGHT LAWS MEAN LESS AND LESS. ABSENT STRONG TECHNOLOGICAL PROTECTIONS LAYERED ON TOP OF THE COPYRIGHT LAWS, IT IS VIRTUALLY IMPOSSIBLE TO ENFORCE THE LAW AS IT EXISTS. YOU CAN SEE TODAY.

THOSE AMERICANS WHO DO ACCESS TOP NOTCH CONTENT ONLINE ARE OFTEN STEALING IT. EVERY WEEK A MAJOR MAGAZINE OR NEWSPAPER REPORTS ON THE THOUSANDS OF ILLEGAL PIRATED WORKS THAT ARE AVAILABLE FOR COPYING AND REDISTRIBUTION ONLINE. ACADEMY AWARD WINNING MOTION PICTURES, PLATINUM RECORDS, AND EMMY AWARD WINNING TELEVISION SHOWS – ALL FOR FREE, ALL ILLEGAL.

WHEN CONGRESS SITS IDLY BY IN THE FACE OF THESE ACTIVITIES, WE ESSENTIALLY SANCTION THE INTERNET AS A HAVEN FOR THIEVERY. THIS PROBLEM CANNOT BE MINIMIZED. PIRACY IS GROWING EXPONENTIALLY ON COLLEGE CAMPUSES AND AMONG TECH SAVVY CONSUMERS. OVER TEN MILLION PEOPLE USE FILE SHARING SITES ON THE INTERNET TO DOWNLOAD MOVIES, SONGS, AND TV SHOWS, WITH NO PENALTY. SUCH AN ATMOSPHERE CONTRIBUTES TO THE STUDIOS AND RECORD LABELS' RELUCTANCE TO PLACE THEIR DIGITAL CONTENT ON THE INTERNET OR OVER THE AIRWAVES.

THERE IS SOME LEGALLY AVAILABLE CONTENT ONLINE. BUT IT IS LIMITED AND

PROVIDED VIA PROPRIETARY CLOSED SYSTEMS THAT PROVIDE CONTROL TO THE COMPANIES PROVIDING THE PROTECTION – MICROSOFT, INTEL, AND REAL NETWORKS – RATHER THAN THE CONSUMER. TO GAIN ACCESS EVEN TO ALL THE LIMITED CONTENT THAT IS AVAILABLE, CONSUMERS MUST COBBLE TOGETHER ACCESS VIA THE VARIETY OF PROPRIETARY SCHEMES, AND MAY END UP HAVING TO PAY MORE TO DO SO. THIS IS WHY I AM PLEASED CISCO IS TESTIFYING TODAY AS TO THE NEED FOR AN OPEN STANDARD AS A SOLUTION TO THESE PROBLEMS.

A SOLUTION IS UNDER OUR NOSES. LEADERS IN THE CONSUMER ELECTRONICS, INFORMATION TECHNOLOGY, AND CONTENT INDUSTRIES ARE AMERICA’S BEST AND BRIGHTEST. THEY CAN SOLVE THIS PROBLEM.

THE CONSUMER ELECTRONICS AND HIGH TECH INDUSTRIES CLAIM THEY ARE READY TO SOLVE THESE PROBLEMS. I WANT TO BELIEVE THEM. BUT I AM NOT SURE. INDUSTRY NEGOTIATIONS HAVE BEEN GOING ON FOR YEARS WITH LITTLE TO SHOW FOR IT. BOTH SIDES SHARE SOME BLAME IN THIS AREA. BUT AS I SEE IT, THE TECH INDUSTRY HAS MIXED INCENTIVES. EXISTING DIGITAL RIGHTS MANAGEMENT (‘DRM’) TECHNOLOGIES LICENSED TO SELECT CONTENT COMPANIES WOULD BE ELIMINATED BY THE ADOPTION OF A SINGLE STANDARD. OTHER TECH COMPANIES PROFIT FROM THE SALE OF CONSUMER ELECTRONICS EQUIPMENT THAT ENABLES PIRACY IN THE 1ST PLACE. SO WHEN I LISTEN TO HIGH TECH’S CLARION CALL TO THE GOVERNMENT – “PLEASE STAY AWAY FROM OUR BUSINESS” – I AM REMINDED A BIT OF THE POLICE CHIEF IN CASABLANCA WHO FEIGNED SURPRISE AND SAID – “I AM SHOCKED THERE IS GAMBLING GOING ON HERE.”

SENATOR STEVENS AND I ARE PLANNING LEGISLATION THAT WOULD PLACE A DEADLINE ON AFFECTED INDUSTRIES TO COME TOGETHER TO SOLVE THESE PROBLEMS IN PRIVATE SECTOR TALKS. IF THEY DO, WE WILL EMPOWER

GOVERNMENT ENFORCEMENT SO THAT ALL CONSUMER DEVICES COMPLY WITH THE PRIVATE SECTOR'S SOLUTION. IF THEY DON'T, THE GOVERNMENT'S TECHNOLOGISTS AND ENGINEERS, IN CONSULTATION WITH THE PRIVATE SECTOR WILL STEP IN. THIS WOULD NOT BE THE FIRST TIME CONGRESS IMPOSED TECHNOLOGICAL REQUIREMENTS TO BENEFIT CONSUMERS. AND IT WON'T BE THE LAST.

IN 1962, CONGRESS ENACTED THE ALL CHANNEL RECEIVER ACT, TO REQUIRE THAT ALL TELEVISION RECEIVERS INCLUDE THE CAPABILITY TO TUNE ALL CHANNELS (UHF AND VHF) ALLOCATED TO THE TELEVISION BROADCAST SERVICE. THIS WAS A GOVERNMENT MANDATE OF TECHNOLOGY THAT BENEFITTED CONSUMERS, AND INDUSTRY.

MORE RECENTLY, IN 1998, CONGRESS REQUIRED ALL ANALOG VCRS, BY APRIL 2000, TO CONFORM TO COPY CONTROL TECHNOLOGY (KNOWN AS 'MACROVISION'). THIS WAS PART OF THE LANDMARK DIGITAL MILLENIUM COPYRIGHT ACT ('DMCA') THAT TOOK THE FIRST STEP TO PROTECT CONTENT IN A DIGITAL AGE. UNLIKE THE ALL CHANNEL RECEIVER ACT, THIS MANDATE REFLECTED A CONSENSUS AMONG INDUSTRY THAT MACROVISION WAS AN APPROPRIATE TECHNOLOGICAL SOLUTION. IN BOTH CASES, ONE THE RESULT OF INDUSTRY CONSENSUS, THE OTHER THE RESULT OF A GOVERNMENT MANDATE, CONSUMERS AND INDUSTRY BENEFITTED AS MORE AMERICANS RECEIVED GREATER ACCESS TO MORE PROGRAMMING AND CONTENT.

FINALLY, I WANT TO EMPHASIZE THAT WE WILL WORK TO PRESERVE LEGITIMATE EXPECTATIONS OF CONSUMERS AND RESEARCHERS. IF THEY ARE ENGAGING IN APPROPRIATE BEHAVIOR NOW IN THE HOME OR AT A UNIVERSITY, WE WILL SEEK TO ENABLE THEM TO DO THE SAME IN THE FUTURE.