

Testimony of the Honorable Dan Glickman
Chairman and CEO of the Motion Picture Association of America
Before the Senate Commerce Committee Hearing on S.2686
June 13, 2006

Chairman Stevens, Co-Chairman Inouye, members of the Committee:

On behalf of the member companies of the Motion Picture Association of America, I thank you for the opportunity to talk to you about S. 2686, the Communications, Consumers' Choice and Broadband Deployment Act of 2006.

Chairman Stevens, this hearing comes at a time not only critical to our industry, but also at a critical time for this nation.

Protecting intellectual property will become a recurring and increasingly important theme for our economy in the decades to come. This nation will prosper or it will fail in large part based on how we protect our nation's greatest assets...the skill, ingenuity and creativity of our people.

This is why the MPAA strongly supports including a broadcast flag provision in S. 2686. The broadcast flag rule adopted by the FCC was by no means perfect. No one who participated in the FCC process got everything they hoped for, and there is probably no one, including the motion picture industry, that wouldn't change something if given the chance.

But in the end the FCC rule reflected an open and thorough process that took into account the concerns expressed by all who participated, and the result was a compromise that was fair and workable. The same can be said of the latest provision included in S. 2686. It is not perfect, and no one is likely to be satisfied entirely. The motion picture industry certainly has its own concerns with some of its provisions. But on the whole the Committee has done a commendable job of crafting a compromise provision that is fair

and workable. We appreciate your hard work in including this provision in S. 2686, and we hope that it will pass the Senate and eventually be enacted into law.

This provision works to protect video content by giving the Federal Communications Commission (FCC) authority to implement the broadcast flag regulations which it adopted over two years ago and that were to become effective last July.

There are three reasons to include this broadcast flag provision.

First, it will protect the quality of free over-the-air broadcasts in the digital age. Cable and satellite systems already have systems in place to protect content so that it can not be indiscriminately distributed over the Internet. If broadcast television is not similarly protected, content providers will choose to send their high value content to where it can best be protected. By including the broadcast flag, this Committee takes a stand to protect free over-the air television for consumers.

Second, by including this provision, the Committee brings certainty to the consumer electronics marketplace. The marketplace has already anticipated that the broadcast flag will be required and many manufacturers of digital television devices are now producing equipment in compliance with the FCC broadcast flag regulations. Reinstatement of the FCC rule will provide uniformity and certainty for consumers who rely on digital over-the-air broadcasts.

Third, the provision promotes an important free market principle: By protecting intellectual property you promote job creation.

The American film industry, like all of the creative industries, combines capital and talent to produce intellectual property. It is not easy to create a movie. It requires lots of money, lots of skilled workers, and lots of hard work. In fact, four out of ten movies don't

make back their investment. So the movie industry is fraught with risk.

Despite these hurdles, the American film industry is the most successful in the world. It is one of our most important exports. It is one of our best job creators.

But according to a new study conducted by a respected market research firm, our industry loses approximately \$6.1 billion dollars a year. Without this broadcast flag provision, those numbers could grow exponentially once we make the full transition to digital television.

The broadcast flag rule is targeted and narrowly focused on a single problem, the indiscriminate redistribution of digital broadcast television content over the Internet. As long as one is not trying to redistribute flagged content over the Internet, a typical consumer will not know the broadcast flag exists.

I want to emphasize that the Broadcast Flag has been the subject of intense scrutiny by technology and content communities, as well as other interested parties, in open forums consuming literally thousands of man-hours of discussion. There is broad consensus that this is an issue that needs to be addressed. There is also broad consensus on the nature of the solution considered. I believe the discussion draft legislation released last week is fully consistent with that consensus and should be swiftly enacted.

Let me add one cautionary note. While we strongly support legislation that will implement the broadcast flag, we cannot support legislation that will do that at the expense of the anti-circumvention provisions of the DMCA. Legislation similar to that offered by the House of Representatives in the form of HR 1201, would, as a practical matter, repeal Section 1201 of the DMCA, and do much more harm than good.

Chairman Stevens, Co-Chairman Inouye, members of the Committee, I appreciate this opportunity to discuss this matter of great concern to our industry and I look forward to answering any questions you may have regarding what I have just discussed.