

Congress should fully consider which promises to bring true tax relief for all Americans.

There is no such thing as a good tax.

Will Rogers once said, "The income tax has made liars out of more Americans than even golf." Those who are most familiar with the Internal Revenue Service, the agency charged with enforcing the income tax code, agree.

Former IRS Commissioner Fred Goldberg said, "The IRS has become a symbol of the most intrusive, oppressive and non-democratic institution in our democratic society." Former Commissioner Shirley Peterson concurred, "we should repeal the Internal Revenue Code and start over."

Indeed, this is the principle objective of the National Retail Sales Tax Act of 1997 (H.R. 2001), which has been introduced in Congress by my Colorado colleague and good friend U.S. Representative DAN SCHAEFER. The plan is predicated upon the repeal of the Constitution's Sixteenth Amendment, which was ratified in 1913 and gave Congress, for the first time, power to impose an income tax.

Income taxes and the IRS would be replaced with a 15 percent federal sales tax on the final purchase of goods and services at the retail level. The rate would decline in future years to 10 to 12 percent as economic growth allows more revenue to be raised at a lower rate and downsizing continues.

According to Mr. SCHAEFER's plan, no income would be taxed until it is consumed. Capital gains and interest income would not be taxed as long as that income is reinvested. Deductions would no longer be a relevant concept under a sales tax. Taxpayers, not the government, would get first crack at their paychecks.

Any business required to collect and remit the sales tax would keep 0.5 percent of tax receipts to offset federal compliance costs, and nothing used to directly or indirectly produce a good for retail consumption would be taxed. The burden of proof would lie with the government in any dispute with a taxpayer.

Mr. SCHAEFER's plan also includes a personal consumption refund to ensure that the basic necessities of life remain tax free. Every wage earner would receive a refund equal to the sales tax rate multiplied by the poverty level (adjusted for the number of dependents claimed) in every paycheck. As a result, every wage earner will earn up to the poverty level tax free.

Though there are several other relevant provisions of the plan, perhaps its biggest appeal is the elimination of the IRS and the need to file tax returns. This year, taxpayers will spend well over \$600 billion in accounting, legal, and processing costs, and 5.4 billion hours just to complete their tax forms.

These costs, along with the cost of income taxation itself, are currently passed along to consumers concealed in the purchase price of all goods and services, including food, medical supplies and housing. Moreover, the graduated income tax punishes economic success, and discourages investment.

No one should be led to believe that the National Retail Sales Tax Act will ever make tax-paying a pleasant experience. After all, no one is proposing to abolish taxation.

Mr. SCHAEFER is, however, the first to acknowledge that his proposal requires much more discussion and he anticipates many more revisions. He points out though that just about any criticism that applies to his plan

doubly applies to the current income tax structure. But as to the sales tax, there are just far fewer of them.

LYNELLE ECHEVERRIA KERN
COUNTY CATTLEWOMAN OF THE
YEAR

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 12, 1998

Mr. THOMAS. Mr. Speaker, it gives me great pleasure to congratulate a truly exemplary individual, Lynelle Echeverria, upon being named the 1998 Kern County Cattlewoman of the Year. The Kern County cattle industry has bestowed this award upon Lynelle because of her superb achievements in the beef industry as well as her contributions to the community.

Lynelle has devoted many years supporting the beef industry at both local and state levels. She chairs the highly successful fund-raiser titled "The Celebration of Western Culture", which is held every year in Kern County. She also has led the Kern County Cattlewomen's Association and is a member of the scholarship committee for the California Cattlewomen. Her long-time involvement and dedication to the industry deserves recognition.

It did not take long for Lynelle to know that she was born to be a cattlewoman. She joined the renowned girls riding group, "the Wranglerettes" at age 11 and performed with them until she was 21. She went on to Cal Poly, majoring in biological sciences with an emphasis on Botany.

In addition to her untiring commitment to the industry, Lynelle also contributes to her community. She is a notable Western artist who has painted, taught and participated in art shows across the country. She has been an active member of the Women Artists of the West for the past 10 years. Somewhere in between she found time to raise a family along with her husband Matt, who is Senior Vice-President of the Tejon Ranch Company and President of the California Cattlemen's Association. They have two children, Debbie and Michael.

Lynelle Echeverria is a remarkable woman who aptly fits the role of Cattlewoman of the Year. She embodies the spirit and dedication of family in one of the West's most historic industries. She has dedicated her life to the cattle industry but also to her family and community. I am proud to congratulate her on being named the Kern County Cattlewoman of the Year.

COPYRIGHT COMPULSORY LICENSE IMPROVEMENT ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 12, 1998

Mr. COBLE. Mr. Speaker, I am pleased to introduce the "Copyright Compulsory License Improvement Act." This bill will improve the copyright compulsory license for satellite carriers of copyrighted programming contained on television broadcast signals by applying to

such carriers the same opportunities and rules as their cable competitors. This competitive parity will lead to increased exposure of copyrighted programming to consumers who will pay lower prices for cable and satellite services which deliver programming to their homes. These lower prices will result from the choices consumers will have in choosing how they want their television programming delivered. Mr. Speaker, I know I speak for many of the Members in this House when I assert that creating competition in the video delivery market is the key to more choice and lower prices for our constituents.

The Copyright Act of 1976 bestowed on cable television a permanent compulsory license enables that industry to rebroadcast network and superstation signals to cable television viewers without requiring cable operators to receive the authorization of thousands of copyright owners who have an exclusive right to authorize the exploitation of their programs. The cable operators pay a set fee for the right to retransmit and the monies collected are paid to the copyright owners through a distribution proceeding conducted under the auspices of the United States Copyright Office.

In 1988, Congress granted a compulsory license to the satellite industry. Although the cable and satellite compulsory licenses have similarities, there are important differences which I believe prevent satellite becoming a true competitor to cable. Technology has changed significantly since the cable and satellite compulsory licenses were created. In a very short time, satellite carriers will be able to bring local programming through their services to viewers of that local market. The time has come to take a comprehensive look at the satellite compulsory license as it relates to the long-term viability and competitiveness of the satellite television industry. The satellite compulsory license is set to sunset in December of next year, and the Federal Communications Commission has reported that in areas where there is no competition to cable, consumers are paying higher cable rates. We must act for our constituents to level the playing field in a manner that will allow both industries to flourish to the benefit of consumers.

To that end, the "Copyright Compulsory License Improvement Act" makes the following changes to the Satellite Home Viewer Act:

It makes the satellite compulsory license permanent, just like the cable compulsory license.

It allows new satellite customers who have received a network signal from a cable system within the past three months to sign up for satellite service for those signals. This is not allowed today.

It allows satellite carriers to retransmit a local television station to households within that station's local market, just like cable does.

It reforms the current structure of the administrative body which determines rates and distributions applicable to all copyright compulsory licenses to make it cheaper and more efficient for the parties.

In order to create parity for the above new opportunities for satellite carriers by reforming the license, the bill must also create corresponding regulatory parity between the satellite and cable industries, including must-carry rules, retransmission consent requirements, network non-duplication protection, syndicated

exclusivity protection, and sports blackout protection. These regulations will apply after a period of time in which the Federal Communications Commission can carefully consider and tailor their implementation. Until that time, the portions of the satellite compulsory license which determine who is eligible to receive network and superstation signals from satellite carriers will continue to apply just as they do now.

I note that under the provisions of this bill the current state of the law (and as expressly stated in section 12(b), the unserved household provisions of current law) shall remain in effect until such time as the Commission makes determinations pursuant to section 12 of the bill regarding implementation of network nonduplication protection and other protections. I am troubled by the suggestion of some that the introduction of this legislation may form the basis of an attempt to postpone or alter the outcome of pending court proceedings regarding enforcement of the current unserved household provisions. This legislation is not intended to diminish the effect of existing law. Parties subject to the unserved household provisions of the current Section 119 license are expected to comply fully with those provisions as they currently exist, and, of course, I reject any suggestion that courts should decline to enforce or postpone enforcing existing law because Congress is debating whether to change it. The notion that parties need not comply with laws that may be changed in the future is an invitation to lawlessness which I firmly reject.

This is a forward-looking bill which will create an incentive for companies to develop the means by which to provide local programming to local markets over satellite systems. I am committed to working with Representative BILLY TAUZIN, Chairman of the Commerce Subcommittee on Telecommunications, Trade and Consumer Protection, and with Representative TOM BLILEY, Chairman of the full Commerce Committee, on the regulatory provisions in this bill. Their leadership and partnership has been and will continue to be invaluable and necessary in guaranteeing true competition between the satellite and cable industries.

I also want to recognize the leadership and care that Senator ORRIN HATCH, Chairman of the Senate Committee on the Judiciary, has paid to the development of this important bill. We have worked together closely on its provisions and I know he is committed, as I am, to assuring fair competition through this legislation. I look forward to continuing our work together as our bills move through both bodies of the Congress.

Let me make clear that this bill is a compromise, carefully balanced to ensure competition. I believe it contains the balance necessary to allow this bill to become law this session and I urge all interested parties to join us in a constructive discussion of this very important legislation.

Following is a brief section-by-section which explains the bill in more detail:

SECTION 1

The title of the bill is the "Copyright Compulsory License Improvement Act."

SECTION 2

Section 2 of the bill amends the section 119 satellite carrier compulsory license of the Copyright Act to create a statutory licensing scheme that permits satellite carriers to

provide their subscribers with local and distant television broadcast signals, as well as the national satellite feed of the Public Broadcasting Service. Satellite carriers may retransmit any television broadcast signals to subscribers for private home viewing, provided that such retransmissions are in compliance with the rules and regulations of the Federal Communications Commission. Such compliance would include syndicated exclusivity, sports blackout and network nonduplication protection for broadcasters, as required by section 12 of the bill.

Section 2 requires satellite carriers to provide initial and updated lists to local television stations identifying subscribers in the local television station's area who receive satellite service and the names of the network stations provided to those subscribers. This will allow television stations to preserve their network nonduplication rights provided in section 12 of the bill.

Section 2 prohibits satellite carriers from willfully altering the programming contained on television broadcast signals and the PBS national satellite feed that carriers retransmit. In addition, satellite carriers are prohibited from unlawfully discriminating against a distributor of satellite retransmitted broadcast programming, and any such unlawful discrimination constitutes an act of copyright infringement subject to the penalties of chapter 5 of the Copyright Act. It is also copyright infringement for a satellite carrier to fail to submit a statement of account and royalty fee necessary to obtain the satellite compulsory license.

SECTION 3

Section 3 of the bill creates the terms and conditions of the satellite compulsory license. Carriers must submit a statement of account and royalty fee to the Copyright Office on a semiannual basis for subsequent distribution to copyright owners. The royalty fee for retransmission of distant television broadcast stations, and the PBS national feed, is the royalty fee in effect on date of enactment of the bill for retransmission of distant broadcast signals. There is no royalty fee for television broadcast signals that are retransmitted to subscribers who reside within the local markets of such signals.

The remainder of section 3 continues the provisions of the existing law by prescribing how the royalty fees are collected and maintained for distribution, and how copyright owners of works contained on retransmitted television broadcast signals and the PBS national feed may claim royalties.

SECTION 4

Section 4 of the bill contains definitions of terms used in section 119 compulsory license. Most of the definitions in the existing law are carried forward. New provisions include a definition of "designated market area" and "local market" for determining royalty-free local retransmissions of broadcast signals, and a definition of new PBS national feed.

SECTION 5

Section 5 of the bill carries forward the provision of existing law maintaining exclusivity of the satellite license with the cable compulsory license of the Copyright Act, found at 17 U.S.C. 111. That is, a satellite carrier making secondary transmissions of television broadcast signals, and the PBS national feed, for private home viewing may only do so under the terms of section 119 license, and may not invoke the terms of the section 111 cable license.

SECTION 6

Section 6 of the bill contains a conforming amendment amending the table of contents of chapter 1 of the Copyright Act.

SECTION 7

Section 7 of the bill completely revises chapter 8 of the Copyright Act, replacing the current Copyright Arbitration Royalty Panels with a Copyright Royalty Adjudication Board.

New section 801 of the Copyright Act establishes the Copyright Royalty Adjudication Board within the U.S. Copyright Office.

New section 802 of the Copyright Act establishes the membership and qualifications of the Board. New section 802(a) establishes that the Board should be comprised of one full-time Chief Administrative Copyright Judge and at least two part-time Administrative Copyright Judges. It is left up to the discretion of the Librarian of Congress, upon the recommendation of the Register of Copyrights, to determine how many other part-time Administrative Copyright Judges the Board shall have. The determination should be based on how many judges the Board will need to conduct its business in a timely manner.

New section 802(b) requires that the Chief Administrative Copyright Judge be an attorney with ten or more years of legal practice and have experience either in administrative hearings or court trials, and a demonstrated knowledge of copyright law. Other Administrative Copyright Judges must possess expertise in the business and economics of industries affected by the actions the Board takes.

New section 802(c) provides that the term of all Administrative Copyright Judges shall be five years on a staggered basis so that no more than one term is due to expire in any one year. To achieve this, the Librarian of Congress, upon the recommendation of the Register of Copyrights, shall appoint some of the initial Administrative Copyright Judges to shorter than five year terms.

New section 802(d) provides compensation for the Administrative Copyright Judges at the Senior Level in accordance with the provisions of 5 U.S.C. 5376.

New section 803 of the Copyright Act provides for selection of the Administrative Copyright Judges. New section 803(a) provides that the Librarian of Congress, upon the recommendation of the Register of Copyrights, selects the Administrative Copyright Judges. The Librarian may only select those persons found qualified under section 802(b) and found to meet the financial conflict of interest standards adopted under section 805(a). The Librarian may re-select, without limit, Administrative Copyright Judges to additional terms. Section 803(b) provides that actions taken by the Board during those times will be valid, notwithstanding any temporary vacancy.

New section 804 of the Copyright Act provides for the independence of the Board. New section 804(a) provides that the Board shall have decisional independence on the substantive matters before it. Administrative Copyright Judges are neither to receive performance appraisals nor are they to be assigned duties inconsistent with their duties and responsibilities as Administrative Copyright Judges.

New section 805 of the Copyright Act provides for removal and sanction of the Administrative Copyright Judges. New section 804(a) provides that the Register of Copyrights shall adopt regulations regarding the standards of conduct that Administrative Copyright Judges are expected to maintain.

New section 804(b) provides that the Librarian, upon the recommendation of the Register of Copyrights, may remove or sanction a Administrative Copyright Judge of the Board, upon notice and opportunity for hearing, for violation of any of the standards of conduct adopted under section 804(a).

New section 806 of the Copyright Act provides for the functions of the Board. New section 806 enumerates the rate setting, royalty

distribution, and rulemaking functions that are delegated to the Board. The Board determines the rates for: cable retransmission of broadcast signals, the making and distributing of phonorecords by means other than digital phonorecord delivery, satellite carrier retransmission of broadcast signals, and the importing and distributing or manufacturing and distributing of digital audio recording devices.

The Board determines the rates and terms for: public performance of a sound recording by means of a digital audio transmission; the making and distributing of phonorecords by means of a digital phonorecord delivery; the public performance of music on jukeboxes; the use of music and visual works by public broadcasting entities; and the transmission to the public by a satellite carrier of a primary transmission of a public telecommunications signal.

The Board accepts or rejects claims filed by copyright owners to royalties deposited with the Copyright Office in the cable fund, the satellite carrier fund, and the digital audio recording fund. Then, for those claims that the Board accepts, the Board determines how much each claimant should receive from those funds.

The Board has jurisdiction to decide, when petitioned, if a particular digital audio recording device or digital audio recording interface device is subject to the provisions of chapter 10 for paying a royalty on the distribution of such devices.

The Board also has certain rulemaking authority concerning the filing of claims, the notice and record keeping requirements pertaining to some of the compulsory licenses, and the Board's own procedures.

New section 807 of the Copyright Act sets out the actors for determining the royalty fees for the section 114, 115, 116, 118 and 119 compulsory licenses of the Copyright Act. The section also lists the factors that the Board shall take into account when determining or adjusting royalty rates.

New section 808 of the Copyright Act provides for the institution of royalty distribution and rate adjustment proceedings under the compulsory licenses. New section 808 instructs the Board when proceedings shall occur, and whether the proceedings require a petition to initiate them or whether they commence automatically.

New section 809 of the Copyright Act describes the conduct of royalty distribution and rate adjustment proceedings. New section 809(a) provides that the Board shall conduct its proceedings in accordance with the Administrative Procedure Act. New section 809(b) provides that the Board shall adopt its own rules of procedures upon the approval of the Register of Copyrights. New section 809(c) authorizes the Copyright Office, in its discretion, to file formal pleadings with the Board on any matter pending before the Board. All Copyright Office pleadings shall be formally filed and served on all the parties to the proceeding. The Board may accept or reject the advice of the Copyright Office.

New section 809(d) provides that all actions of the Board are by majority rule. New section 809(e) allows the Board the discretion to determine whether, in a particular proceeding, one or three Administrative Copyright Judges should preside. New section 809(f) permits all parties whose claims are accepted or who have an interest in the royalty rate to be set to participate in the proceeding and submit relevant proposals and evidence.

New section 809(g) provides that, except as provided in sections 118 and 119(c), the time limit for the issuance of initial decisions in proceedings with one presiding Administrative Copyright Judge shall be six months from the declaration of the controversy, and the time limit for initial decisions in pro-

ceedings with three presiding Administrative Copyright Judges shall be one year from the declaration on the controversy.

New section 809(h) provides that the initial decision shall contain the same level of reasoned decision-making that is required under the Administrative Procedure Act, and take into account precedent of the decisions of the Copyright Royalty Tribunal, the copyright arbitration royalty panels and the decisions of the Librarian of Congress made in respect to the copyright arbitration royalty panels.

New section 809(i) provides the parties to the proceeding and the Register of Copyrights an opportunity to petition the entire Board to reconsider any initial decision issued by its presiding Administrative Copyright Judge or Administrative Copyright Judges. If there are no petitions for reconsideration, the initial decision becomes the final decision automatically. If there are petitions for reconsideration, the entire Board considers the petition, and issues a final decision. The final decision of the entire Board constitutes a final agency action. Section 809(j) provides that the time limits for filing petitions for reconsideration, and for the entire Board to issue the final decision shall be determined by regulation.

New section 809 of the Copyright Act provides for judicial review of Board determinations. New section 810(a) provides that when the initial decision becomes the final decision, the Board shall have one week to publish the final decision in the Federal Register. Parties aggrieved by the decision of the Board shall have 30 days from the appearance of the final decision in the Federal Register to appeal the decision to the United States Circuit Court of Appeals for the Federal Circuit. In that case, the Board shall be the defending party, and the Chief Administrative Copyright Judge shall refer the conduct of the Board's defense to the Department of Justice. Notwithstanding the pendency of any appeal, persons who would pay the royalty rates adjusted by the Board's decision are still obligated to pay the adjusted rate and, if applicable, to file a statement of account with the Copyright Office.

New section 810(b) provides that judicial review of the Board's final decision is in accordance with the Administrative Procedure Act.

New section 811 delineates various administrative matters related to administration of the compulsory licenses. New section 811(a) instructs the Librarian of Congress, upon the recommendation of the Register of Copyrights, to provide the Board with the necessary administrative services and personnel support it needs.

New section 811(b) delegates to the Board the authority to publish in the Federal Register notices of the Board's actions in its proceedings, and such regulations as the Board has been delegated the exclusive right to adopt. New section 811(c) authorizes the Register of Copyrights to deduct from the royalty fees deposited with the Copyright Office the reasonable costs incurred by the Copyright Office and the Board. In rate-making proceedings, the reasonable costs of the Copyright Office and the Board shall be borne by the parties to the proceeding in such manner and proportion as the Board directs.

New section 811(d) provides that notwithstanding any ceiling imposed on the full-time equivalent positions in the Library of Congress, the Administrative Copyright Judges or employees in support of the Board do not count in the calculation of that ceiling.

New section 811(e) provides that when the Register of Copyrights submits to Congress the budget of the Copyright Office, the Reg-

ister shall identify the portion intended for the Board with a statement assessing the Board's budgetary needs.

Section 811(f) provides that the Board shall prepare its own annual report and it shall be included in the Copyright Office's annual report.

SECTION 8

Section 8 of the bill provides that, prior to the constituting of the Board, the Register of Copyrights shall adopt the Board's rules of procedure, but that when the Board is constituted, it may adopt supplemental or superseding regulations, upon the approval of the Register of Copyrights.

The section also provides that copyright arbitration royalty panels that have already been convened at the time of the passage of this act may continue and complete their proceeding, unless the Register of Copyrights, finds for good cause, that the proceeding should be discontinued. For those proceedings that continue, the report of the copyright arbitration royalty panels shall be submitted to the Librarian of Congress, or the Librarian may, in his discretion, direct the panel to submit the report to the Board. If there are any appeals pending of a decision of a copyright arbitration royalty panel that are eventually remanded by the Court, the remanded case shall go to the Board, not to a reconvened copyright arbitration royalty panel.

SECTION 9

Section 9 of the bill contains conforming amendments to substitute the Copyright Royalty Adjudication Board for the copyright arbitration royalty panels and the Librarian of Congress wherever appropriate.

SECTION 10

Section 10 amends the section 325 of the Communications Act to provide that satellite carriers must in certain circumstances obtain retransmission permission from a broadcaster before they can retransmit the signal of a network broadcast station. Like the regime applicable to the cable industry, network broadcasters are afforded the option of either granting retransmission consent, or they may elect must-carry status as provided in section 11 of the bill. All satellite carriers that provide local service of television network stations must obtain either retransmission consent of the local broadcasters, or carry their signals subject to the must-carry provisions.

Section 10 does exempt carriage of certain broadcast stations from the retransmission consent requirement. Retransmission consent does not apply to noncommercial broadcasting stations, and superstations that existed as superstations on January 1, 1998. Also exempt from the retransmission consent requirement is retransmission of a network station to a household that is not subject to the network nonduplication protection provided in section 12 of the bill. The purpose of this provision is to allow subscribers who reside in the designated market area of a network affiliate, but do not live in an area where the relevant local stations can request network nonduplication (assuring that a subscriber does not or cannot otherwise receive the signal of the local affiliate) to obtain a distant signal of the same network from their satellite carrier.

Section 10 also directs the Federal Communications Commission, within 45 days of enactment of the bill, to commence a rulemaking proceeding to adopt regulations governing the exercise of retransmission rights for satellite retransmissions for private home-viewing.

SECTION 11

Section 11 of the bill creates must-carry obligations for satellite carriers retransmitting television broadcast signals. The provisions are similar to those applicable to the

cable industry. Any satellite carrier that retransmits a television broadcast signal to subscribers residing within the local market of that signal must carry all the television stations in the local market to subscribers residing in the local market. This approach of "carry one, then carry all" is subject to the retransmission consent election of section 10 of the bill. Thus, a satellite carrier does not have to carry a local television broadcast station if the station elects retransmission consent rather than must-carry. The "local market" of a broadcast station is defined as the station's Designated Market Area, as determined by Nielsen Media Research.

Section 11 tracks the cable must-carry provisions of the 1992 Cable Act by relieving satellite carriers from the burden of having to carry more than one affiliate of the same network if both of the affiliates are located in the same local market. Local broadcasters are also afforded channel positioning rights, and are required to provide a good quality signal to the satellite carrier's principal headend in order to assert must-carry rights. Satellite carriers are forbidden from obtaining compensation from local broadcasters in exchange for carriage. Section 11 also provides a means for broadcasters to seek redress from the Federal Communications Commission for violations of the must-carry obligations.

SECTION 12

Section 12 of the bill directs the Federal Communications Commission, within 45 days of enactment of the bill, to commence rule-making proceedings to impose network nonduplication protection, syndicated exclusivity and sports blackout protection on satellite retransmissions of television broadcast signals for private home-viewing. The regulations adopted are to be similar to those currently in force for retransmissions of television broadcast signals by cable systems. In adopting network nonduplication protection rules, the Commission is directed to adopt rules that permit satellite carriers to provide distant network signals to subscribers who reside within the designated market area of a network station affiliated with the same network but who cannot receive an over-the-air signal of the local affiliate, and further do not receive the local signal from a cable or satellite service. The purpose of this provision is to prevent local affiliates from asserting network nonduplication protection against subscribers who legitimately cannot or otherwise do not receive the local network affiliate signal. Thus, if the satellite carrier serving a subscriber provides him/her with the local affiliate for that designated market area, the satellite carrier may not also provide such subscriber with distant network signals affiliated with the same network.

ON-LINE COPYRIGHT INFRINGEMENT LIABILITY LIMITATION ACT

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 12, 1998

Mr. GOODLATTE. Mr. Speaker, I rise today to introduce, along with Representative HOWARD COBLE (R-NC)—my good friend from North Carolina and Chairman of the Judiciary Subcommittee on Courts and Intellectual Property—the "On-Line Copyright Infringement Liability Limitation Act." I would like to thank Chairman COBLE for asking me to lead the ne-

gotiations between the various parties on this issue, and also for his support through this process.

The issue of liability for on-line copyright infringement, especially where it involves third parties, is difficult and complex. For me personally, this issue is not a new one: during the 104th Congress, then-Chairman Carlos Moorhead asked me to lead negotiations between the parties. Although I held numerous meetings involving members of the content community and members of the service provider community, unfortunately we were not able to resolve this issue.

At the beginning of the 105th Congress, Chairman COBLE asked me to again lead the negotiations between the parties on this issue. As a starting point, we asked the parties involved to submit written comments on H.R. 2180, the "On-Line Copyright Liability Limitation Act," introduced by Chairman COBLE and Chairman HENRY HYDE. We then used those comments as a basis for a discussion draft, which I had hoped to offer as a substitute to H.R. 2180 during Subcommittee consideration of the legislation.

Comments on the first discussion draft led to a second discussion draft, in which I, along with my staff, Chairman COBLE's staff, and Ranking Member BARNEY FRANK's staff, attempted to combine suggestions from both sides into a bill that the parties could support. While both sides attempted to work within the structure of H.R. 2180, it became clear to us that the path we were on would not result in a resolution of this issue.

The bill introduced today marks a new beginning of this process. The "On-Line Copyright Infringement Liability Limitation Act" is intended as a codification of the decision in *Religious Technology Center v. Netcom*, 907 F. Supp. 1361 (N.D. Cal. 1995), in which the Court held that an Internet access provider was not directly liable for copyright infringement committed by a bulletin board subscriber. While I do not yet have a proposal that I can say is supported by both sides of this debate, I am not currently aware of any opposition to the principles adopted by the Court in *Netcom*.

It is my hope that this new bill will encourage the parties involved in this issue to come together and agree on a solution. I do not see the introduction of this bill as the end of negotiations on the issue of liability for on-line copyright infringement; to the contrary, I believe that it will further the negotiations by beginning with basic principles on which the parties can agree. Undoubtedly both sides will want to see changes made to this legislation, and I am committed to continuing to work with the parties in the hope of reaching a successful resolution to this issue.

I would additionally like to discuss the importance of the World Intellectual Property Organization treaties, and the accompanying implementing legislation, which are critical to protecting U.S. copyrights overseas. The United States is the world leader in intellectual property. We export billions of dollars worth of creative works every year in the form of software, books, videotapes, and records. Our ability to create so many quality products has become a bulwark of our national economy, and it is vital that copyright protection for these products not stop at our borders. International protection of U.S. copyrights will be of tremendous benefit to our economy—but we

need to ratify the WIPO treaties for this to happen.

Mr. Speaker, this is a critical issue to the development of the Internet, and I believe that both sides in this debate need each other. If America's creators do not believe that their works will be protected when they put them on-line, then the Internet will lack the creative content it needs to reach its true potential. And if America's service providers are subject to litigation for the acts of third parties at the drop of a hat, they will lack the incentive to provide quick and efficient access to the Internet.

The "On-Line Copyright Infringement Liability Limitation Act" will not solve every problem posed by the content and service provider communities. I do believe, however, that this bill is a good first step towards reaching consensus on this issue, and I encourage the parties involved to work together to create a mutually beneficial solution.

TRIBUTE TO MARY ZANDER

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 12, 1998

Mr. LEVIN. Mr. Speaker, I rise today to recognize Mary Zander, Sterling Heights City Clerk, on the occasion of her retirement from the City of Sterling Heights, Michigan.

Ms. Zander served her City for twenty years as the City Clerk. During her two decades of dedicated service, the City of Sterling Heights has grown from a population of 61,000 in 1967 to 123,000 in 1997, now the sixth largest city in the state. Ms. Zander's leadership was critical during this period of both incredible population growth and technological advancements which have revolutionized the local clerk's office.

Ms. Zander was the Director for the International Institute of Municipal Clerks, a distinguished position that only one other clerk in the world has served in for two terms. She also received special recognition as "Clerk of the Year" from the Michigan Municipal League. As President of the Michigan Municipal League's Clerks Association, First Vice-President of the Michigan Association of Clerks and a lifetime member of the Academy of Advanced Education, Ms. Zander was a leader in her field.

Mr. Speaker, in an era of valuing efficient, customer-oriented government, Mary Zander's work for the City of Sterling Heights deserves our recognition. I am pleased to join with the residents of Sterling Heights, as well as local government officials, in thanking Mary Zander, my friend and the friend of so many others, for her years of dedicated and personal service and in extending best wishes for a healthy and happy retirement.

PUBLIC SCHOOL EDUCATION

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 12, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today in recognition of the