

proud to be able to honor Peter Berrio's brave service, and I am also proud of Edison Berrio for remembering his roots and recognizing his father's impressive legacy. Edison is President of the New York and New Jersey Chapter of the Columbia National Coalition.

I am sure I speak for the entire Congress when I say we are all deeply indebted to Peter Berrio and the millions of other WWII veterans who fought so that we can enjoy the liberty, freedom, and prosperity we have as a nation today.

INTRODUCTION OF H.R. 768, THE
COPYRIGHT COMPULSORY LI-
CENSE IMPROVEMENT ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

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.

This is a very dynamic time for the multi-channel video marketplace, particularly for the satellite industry. These satellite compulsory license is set to expire at the end of this year at a time when the industry enjoys a record number of subscribers. In the meantime, a federal court decision threatens to disconnect hundreds of thousands of satellite customers from their distant network signals. Additionally, several other legislative restrictions still prevent the satellite industry from competing with the cable television industry on an even playing field.

The Copyright Act of 1976 bestowed on cable television a permanent compulsory license which 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 from 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 this year, and the Federal Communications Commission has reported time and again 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 reauthorizes the satellite compulsory license for five years.

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 provides a discount for the copyright fees paid by the satellite carriers.

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

It allows satellite carriers to rebroadcast a national signal of the Public Broadcasting Service.

In order to create parity for the above new opportunities for satellite carriers by reforming the license, there must be additional legislation to 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. 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 legislation complementary to the provisions contained 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.

SECTION-BY-SECTION

SECTION 1. TITLE

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

SECTION 2. LIMITATIONS ON EXCLUSIVE RIGHTS; SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS WITHIN LOCAL MARKETS

Section 2 of the bill creates a new copyright compulsory license, found at Section 122 of Title 17 of the United States Code, for the retransmission of television broadcast programming by satellite carriers to subscribers located within the local markets of those stations. In order to be eligible for this compulsory license, a satellite carrier must be in full compliance with all applicable rules and regulations of the FCC, including any must-carry obligations imposed upon the satellite carrier by the Commission or by law.

Because the copyrighted programming contained on local broadcast programming is already licensed with the expectation that all viewers in the local market will be able to view the programming, the new Section 122 license is a royalty-free license. Satellite carriers must, however, provide local broadcasters with lists of their subscribers receiving local stations so that broadcasters may verify that satellite carriers are making proper use of the license. The subscriber information supplied to broadcasters is for verification purposes only, and may not be used by broadcasters for other reasons.

Satellite carriers are liable for copyright infringement and subject to the full remedies of the Copyright Act if they violate one or more of the following requirements of the Section 122 license.

First, satellite carriers may not in any way willfully alter the programming contained on a local broadcast station. Second, satellite carriers may not use the Section 122 license to retransmit a television broadcast station to a subscriber located outside the local market of the station. If a carrier willfully or repeatedly violates this limitation on a nationwide basis, then the carrier may be enjoined from retransmitting that signal. If the broadcast station involved is a network station, then the carrier could lose the right to retransmit any network stations. If the willful or repeated violation of the restriction is performed on a local or regional basis, then the right to retransmit the station (or, if a network station, then all networks) can be enjoined on a local or regional basis, depending upon the circumstances. In addition to termination of service on a nationwide or local or regional basis, statutory damages are available up to \$250,000 for each six-month period during which the pattern or practice of violations was carried out. Satellite carriers have the burden of proving that they are not improperly making use of the Section 122 license to serve subscribers outside the local markets of the television broadcast stations they are providing.

The Section 122 license is not limited to private home viewing, as is the Section 119 compulsory license, so that satellite carriers may use it to serve commercial establishments as well as homes. The local market of a television broadcast station for purposes of the Section 122 license will be defined by the FCC as part of its broadcast carriage rules for satellite carriers.

SECTION 3. EXTENSION OF EFFECT OF AMENDMENTS TO SECTION 119 OF TITLE 17, UNITED STATES CODE

Section 3 of the bill extends the expiration date of the current Section 119 satellite compulsory license from December 31, 1999 to December 31, 2004.

SECTION 4. COMPUTATION OF ROYALTY FEES FOR SATELLITE CARRIERS

Section 4 of the bill reduces the 27-cent royalty fee adopted last year by the Librarian of Congress for the retransmission of network and superstation signals by satellite

carriers under the Section 119 license. The 27-cent rate for superstations is reduced by 30 percent per subscriber per month, and the 27-cent rate for network stations is reduced by 45 percent per subscriber per month.

In addition, Section 119(c) of Title 17 is amended to clarify that in royalty distribution proceedings conducted under section 802 of the Copyright Act, the Public Broadcasting Service (PBS) may act as agent for all public television copyright claimants and all PBS.

SECTION 5. DEFINITIONS

Section 5 of the bill adds a new definition to the current Section 119 satellite license. The "unserved household" definition is modified to eliminate the 90 day waiting period for satellite subscribers who were previous cable subscribers. In other words, Section 5 would not require an individual who dropped cable to wait 90 days before receiving their network signals via satellite.

SECTION 6. PUBLIC BROADCASTING SERVICE SATELLITE FEED

Section 6 of the bill extends the Section 119 license to cover the copyrighted programming carried upon the PBS national satellite feed. The national satellite feed is treated as a superstation for compulsory license purposes. Also, the bill requires PBS to certify to the Copyright Office on an annual basis that the PBS membership continues to support retransmission of the national satellite feed under the Section 119 license.

SECTION 7. NOTICE TO SUBSCRIBERS

Section 7 of the bill requires a satellite carrier to ensure that each subscriber has been provided a written statement describing and quoting the network territorial restrictions of the Act. The statement should detail the circumstances under which a subscriber may not be eligible for satellite service of a particular network signal. Current subscribers should receive this statement within 60 days of enactment.

The purpose of this provision is to clarify for the customer exactly what the law means pertaining to the eligibility for distant network signals. Time and again customers complain that they were not made aware that there was any prohibition on the reception of distant network signals, or that they were not made aware of restrictions upon receiving notice that their distant network signals were being terminated.

SECTION 8. APPLICATION OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS

Section 8 of the bill amends the current Section 119 license to make it contingent upon full compliance with all rules and regulations of the FCC. This provision mirrors the requirement imposed upon cable operators under the cable compulsory license.

SECTION 9. EFFECTIVE DATE

The amendments made by this bill become effective on January 1, 1999, with the exception of Section 4 which becomes effective on July 1, 1999.

TRIBUTE TO ART M. INOUE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. MATSUI. Mr. Speaker, I am honored to rise in tribute to Mr. Art M. Inouye, Supervising United States Probation Officer in the District Court for the Eastern District of California.

Today, as Mr. Inouye marks his retirement with his many friends and co-workers, I ask all

of my colleagues to join with me in saluting his 25 years of federal service.

A graduate of San Francisco State College in 1965, Mr. Inouye worked as director of the San Francisco Boy's Home from 1963 until 1965 and served in the U.S. Army Reserves from 1966 until 1972.

In 1974 Mr. Inouye began his career as a federal probation officer. By 1979 he had received his law degree from Lincoln University Law School and been promoted to Supervising U.S. Probation Officer.

Mr. Inouye's accomplishments in the Probation Office are numerous. He founded the district's firearms program and safety academy. He was also responsible for guideline sentencing training and implementation, as well as helping to establish a national program on enhanced supervision.

One of the cornerstones of Mr. Inouye's career was his significant contributions working with the Federal Judicial Center, which included teaching, facilitating curriculum development, advising, training, and video production.

As his career progressed, Mr. Inouye was promoted again in 1992 and became involved in the New Officer Orientation program. He also served as a facilitator of the Federal Judicial Center's System Impact Seminars.

In December 1997, Mr. Inouye's many years of exemplary federal service were recognized when he received the Richard F. Doyle Award. This award was established by the Federal Probation and Pretrial Services Officers Association for outstanding work throughout a career.

His award nomination at that time stated, "Art is a national treasure whose hard work, dedication, and unique qualities have touched virtually every employee of Federal Probation and Pretrial Services nationwide. . . ."

Mr. Speaker, I ask all of my colleagues to join with me in saying "thank you" to Art M. Inouye for 25 years of outstanding service to the U.S. Probation Office. I am honored to wish him every success in all of his future endeavors.

TRIBUTE TO DENNIS O'SULLIVAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to my good friend Dennis O'Sullivan, who has recently completed a highly successful term as President of the Sun Valley Chamber of Commerce. Throughout his tenure, Dennis has worked tirelessly and with considerable success to promote the economic interests of Sun Valley. Dennis has a warm and winning manner that invariably brings people over to his side. I know I've enjoyed immensely working with him on numerous occasions.

Dennis is that rare person equally at ease working on business and community issues. In addition to his involvement with the Sun Valley Chamber, for the past several years he has served in the position of Program Director for People In Progress, Inc. In that capacity, Dennis has established programs to assist the homeless and indigent who suffer alcohol and drug dependencies. He and his organization

have stepped in where government cannot—or will not—get involved. It's no exaggeration to say that Dennis has provided a lifeline for people who would otherwise have nowhere else to turn.

Dennis has made an invaluable contribution to many more community-based organizations in the Northeast San Fernando Valley. Among others, he has been active with the San Fernando Valley Alcohol Policy Coalition, the San Fernando Valley Homeless Coalition and Providers Collaborative of the San Fernando Valley.

He is also one of the prime movers behind the Hansen Dam Fourth of July Celebration, which in only a few short years has become a major attraction in the Northeast Valley.

Dennis has led a rich and interesting life, which includes raising a daughter, who now teaches school, and two sons who are officers with the Los Angeles Police Department. He also served with the U.S. Army in Vietnam, receiving an honorable discharge, and worked for 15 years as a motion picture camera technician in the film and television industries.

I ask my colleagues to join me in saluting Dennis O'Sullivan, a man who cares deeply about his community. His generosity of spirit and dedication to public service are an inspiration to us all.

IN RECOGNITION OF MRS. GLENNA GOODACRE

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 23, 1999

Mr. COMBEST. Mr. Speaker, it is my distinct privilege to rise today to honor one of Texas', and our nation's, most accomplished artists, Glenna Goodacre, on her commendation as the 1999 College of Human Sciences Distinguished Leader by Texas Tech University.

A native of Lubbock, Texas, Mrs. Goodacre is perhaps best known for her work as the sculptor of the Vietnam Women's Memorial at the Vietnam "Wall" in Washington, D.C. Since its installation on the Mall in 1993, her bronze depiction of nurses tending a wounded soldier has been appreciated by millions of visitors to our nation's capital. For more than twenty years before creating the women's memorial, she was well known and respected for her sculptural figures, especially her interesting compositions of active children, which continue to be her favorite subjects. Glenna also enjoyed a successful career as a painter for many years before creating her first three dimensional work.

Glenna Goodacre's pieces are in numerous private, corporate, national and international collections. She has more than 40 bronze portraits in public collections, including sculptures of Dwight D. Eisenhower, Barbara Jordon, General Henry "Hap" Arnold, and Katherine Anne Porter. Her bronze sculpture of President Ronald Reagan stands nearly eight feet tall and graces both the Reagan Presidential Library and the National Cowboy Hall of Fame. In 1998, Mrs. Goodacre was selected by the U.S. Mint as one of only a handful of artists to submit designs for a new Sacagawea dollar coin for the year 2000. Her portrayal of Sacagawea with her infant son was chosen,