To Whom This May Concern At the Federal Communications Commission,

Broadband is an advanced telecommunications service and was defined as such under the 1996 Telecommunications Act by Congress which the F.C.C. under the Bush Cheney Administration chose to ignore when it removed competition mandates for telecom and cable companies supplying broadband service. The Bush FCC had it reclassified though as a Title I information service giving the agency weak ancillary authority over broadband. We need to return to Title II for broadband and apply it to mobile broadband also. We need competition mandates to preserve the open internet. With competition mandates Network Neutrality rules are unnecessary without competition and competition mandates Net Neutrality though is necessary. Service providers of broadband and mobile broadband should be subject to the same Title II common carrier rules as providers of dial-up Internet access and telephone service must comply with. Entertainment companies however content providers are and can and should be regulated under Title I. It is ironic that should Internet censorship legislation like the Protect IP Act or SOPA pass it would constitute a real government takeover of the Internet. That being said the reason big media is pushing for such legislation is its inability to innovate. They have always seen technological innovation as a threat because it makes old business models outdated and irrelevant.

Last year the movie industry made $30 billion (1/3 in the U.S.) from box-office revenue.

But the total movie industry revenue was $87 billion. Where did the other $57 billion come from?

From sources that the studios at one time claimed would put them out of business:

Pay-per view TV, cable and satellite channels, video rentals, DVD sales, online subscriptions and digital downloads.

The Movie Industry and Technology Progress

The music and movie business has been consistently wrong in its claims that new platforms and channels would be the end of its businesses. In each case, the new technology produced a new market far larger than the impact it had on the existing market. I suggest major movie studios that are anti competitive and use anti competitive tactics to prevent technological innovation be broken up.

1920's – the record business complained about radio. The argument was because radio is free, you can't compete with free. No one was ever going to buy music again.

1940's – movie studios had to divest their distribution channel – they owned over 50% of the movie theaters in the U.S. "It's all over," complained the studios. In fact, the number of screens went from 17,000 in 1948 to 38,000 today.

1950's – broadcast television was free; the threat was cable television. Studios argued that their free TV content couldn't compete with paid.

1970's – Video Cassette Recorders (VCR's) were going to be the end of the movie business. The movie businesses and its lobbying arm MPAA fought it with "end of the world" hyperbole. The reality? After the VCR was introduced, studio revenues took off like a rocket. With a new channel of distribution, home movie rentals surpassed movie theater tickets.

1998 – The MPAA got congress to pass the Digital Millennium Copyright Act (DMCA), making it illegal for you to make a digital copy of a DVD that you actually purchased.

2000 – Digital Video Recorders (DVR) like TiVo allowing consumer to skip commercials was going to be the end of the TV business. DVR's reignite interest in TV.

2006 - Broadcasters sued Cablevision (and lost) to prevent the launch of a cloud-based DVR to its customers.

Today it's the Internet that's going to put the studios out of business. Sound familiar?

Why was the movie industry consistently wrong? And why do they continue to fight new technology?

The movie industry was born with a single technical standard – 35mm film, and for decades had a single way to distribute its content – movie theaters (which until 1948 the studios owned. It was 75 years until studios had to deal with technology changing their platform and distribution channel. And when it happened (cable, VCR's, DVD's, DVR's, the Internet,) it was a relentless onslaught. The studios responded by trying to shut down the new technology and/or distribution channels through legislation and the courts.

But why does the movie business think their solution is in Washington and legislation?

In the 1920's individual states were beginning to censor movies and the federal government was threatening to do so as well. The studios set up their own self censorship and rating system keeping most sex and politics off the screen for 40 years. Never again wanting to be at the losing side of a political battle they created the movie industry's lobbying arm, MPAA.

By the 1960's, the MPPA achieved regulatory capture (where an industry co-opts the very people who are regulating it,) when they hired Jack Valenti, who ran the studios' lobbying efforts for the next 38-years. Ironically, it was Valenti's skill in hobbling competitive innovation that negated any need for studios to develop agility, vision and technology leadership.

The introduction of new technology is always disruptive to existing markets, particularly to content/copyright owners whose sell through well-established distribution channels. The incumbents tend to have short-sighted goals and often fail to recognize that more money can be made on new platforms and new distribution channels.

In an industry facing constant technology shifts the exec staff and boards of the studios have lawyers, MBAs and financial managers, but no management skill in dealing with disruption. So they rely on lobbying ($110 million a year,) lawsuits, campaign contributions (wonder why the President won't be vetoing SOPA?) and Public Relations.

Ironically, the six major movie studios have a great technology lab in Silicon Valley with projects in streaming rights, Video On Demand, Ultraviolet, etc. But lacking the support from the studio CEOs or boards, the lab languishes in the backwaters of the studios' strategy. Instead of leading with new technology, the studios lead with litigation, legislation and lobbying. (Imagine if the $110 million/year spent on lobbying went to disruptive innovation.)

One of the claims that studios make is that they need legislation to stop piracy. The fact is piracy is rampant in all forms of commerce. Video games and software have been targets since their inception.

Grocery and retail stores euphemistically call it shrinkage. Credit card companies call it fraud. But none use regulation as often as the movie studios to solve a business problem. And none are so willing to do collateral damage to other innovative industries (VCRs, DVRs, cloud storage and now the Internet itself.)

The studios don't even pretend that this legislation benefits consumers. It's all about protecting short-term profit.

When lawyers, MBAs and financial managers run your industry and your lobbyists are ex-Senators, understanding technology and innovation is not one of your core capabilities.

The SOPA bill (and DNS blocking) is what happens when someone with the title of anti-piracy or copyright lawyer has greater clout than your head of new technology. SOPA gives corporations unprecedented power to censor almost any site on the Internet. It's as if someone shoplifts in your store, SOPA allows the government to shut down your store.

What the music and movie industry should be doing in Washington is promoting legislation to adapt copyright law to new technology — and then leading the transition to the new platforms.

The U.S. State Department has been championing the Internet Freedom initiative across the world. Secretary of State Clinton said, "…when ideas are blocked, information deleted, conversations stifled, and people constrained in their choices, the Internet is diminished for all of us."

It's too bad the head of the MPAA – an ex Senator - made a mockery of her words when he wondered "why our online censorship can't be like China? I wonder why can't the MPAA innovate like Sillicon Valley?

Sincerely,

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