

Summary

The American Federation of Television and Radio Artists (“AFTRA”), Directors Guild of America (“DGA”), International Alliance of Theatrical Stage Employees (“IATSE”), and Screen Actors Guild (“SAG”) (collectively the “Guilds and Unions”) support the availability of broadband Internet access to all Americans in order to allow for the *lawful* flow of content; however, broadband policy will be incomplete as long as it fails to address theft of content via *unlawful* Internet distribution. Internet theft threatens grave harm to the output of our nation’s creative industries, and to the artists and craftspeople who make up the membership of the Guilds and Unions. In this rulemaking, the FCC has an opportunity to greatly improve the odds for combating online theft of our members’ work. The Commission should ensure that any rules it adopts will strengthen, not weaken, the rights of those who create this American resource.

The Guilds and Unions represent over 300,000 workers who create a multitude of diverse films, television programs, and sound recordings that are sought-after by consumers around the world. Protection of their lawful rights to earn a living from the sale and distribution of that content should be one of the principal goals of this proceeding.

In the NPRM, the FCC states that it seeks to balance the public interest in a “free and open Internet” with the interests of a free market and spurring innovation among Internet service providers (“ISPs”). The Guilds and Unions fear that the Commission may be overlooking the heart of what consumers want from a “free and open Internet” – *the content*. Stopping the unlawful distribution of content should be one of the goals of the Commission’s broadband policy, and part of the definition of “reasonable network management.” Any definition of “nondiscrimination” and “reasonable network management” that this Commission seeks to enforce should permit the ISPs to use all available tools in a competitively neutral manner to

detect and prevent the illegal downloading of copyrighted works. Just as reasonable network management practices today are employed to improve the quality of service to end-users (for example, to avoid excessive congestion, and to block viruses), they should be permitted to block other harmful distribution via the Internet – namely, content distributed in violation of copyright, depriving our members of jobs and compensation.

At the same time, recognizing the pitfalls of media consolidation, we believe that any Internet regulations must also safeguard the protection of consumer interests and the promotion of a competitive atmosphere as this new market continues to develop.

The FCC should facilitate the use of all available tools to combat online theft, while enacting appropriate safeguards to protect consumers. The FCC rules should encourage ISP notification of end-users who try to access copyright-infringing material. Following such notification, appropriate steps to block access to that content should be permitted. As long as these steps are implemented in an impartial manner, end-users should be able to view all lawfully distributed content of their choice.

A limited degree of transparency is appropriate. End-users should be informed of their rights, and FCC oversight should ensure that ISPs do not behave in an anti-competitive manner. But the rules should not require disclosure of specific tools or processes used to screen for stolen material. Excessive disclosure could undermine efforts to combat online theft.

As the Guilds and Unions representing the working face of our industry – people whose creativity and skills make possible the films, television programs and recorded music that are enjoyed by consumers around the world – we appreciate the Commission’s awareness that our members’ jobs, ability to support their families, and contributions to American culture and economy are at stake.