Dear

As members of the Copyright Assembly, which represents the entire spectrum of America's copyright industries and an enormous engine of American economic growth, we are writing to convey our strong concern regarding three measures that have been introduced over the last several weeks: H.R. 5522 (The Digital Choice and Freedom Act of 2002); H.R. 5544 (The Digital Media Consumers' Rights Act); and H.J. Res. 116 (The Consumer Technology Bill of Rights). Although these proposals purport to benefit consumers, they would in actuality do the exact opposite: limit consumer choice; hinder innovation; and frustrate the ability of copyright owners to distribute high quality digital works to consumers in ways that are both convenient and protected from theft.

Let us tell you why these proposals are so problematic. Simply put, they will undermine the delicate balance Congress has worked so hard to achieve in our copyright law. This balance provides both a meaningful framework of protection in the digital environment by which creators and content providers may benefit from the work they produce as well as a more vibrant digital marketplace for the benefit of consumers. Not only is the collective approach of these measures overbroad and inappropriate, the result is extremely anti-consumer. For example, alone or in combination, these measures would:

- **Raise Prices for consumers.** Although digital technology promises many advantages for consumers -- including the ability to access sought-after content in more ways and at a variety of price points -- these proposals would substantially curtail those advantages by forcing honest consumers to bear the higher costs imposed by "free-riders" who take advantage of the technical and practical vulnerabilities inherent in these proposals to hack copy-protection systems and illicitly access and distribute digital media in all forms.

- **Legitimize hacking of digital rights management (DRM) technologies in a way that undermines copyright owners' ability to protect their works from illegal copying.** While these proposals purport to distinguish between hacking that results in a "fair use" copy and hacking that results in massive illegal distribution of copyrighted works, the hacking tools that these measures would legitimize clearly cannot make this distinction. As Congress recognized when it enacted the DMCA, the hacking tools that would be used to make a "backup" copy of a work are the very same tools that would be used to bypass encryption and copy protection systems in order to illegally copy and distribute that work around the world.
o **Hurt consumers by reducing incentives to invest in and distribute valuable high-quality digital entertainment.** By eliminating existing protections for copyright owners who disseminate their works in digital formats, copyright owners would be left with few incentives to invest substantial risk capital in creating and distributing works they cannot protect.

o **Stifle innovation in new DRM and digital distribution technologies that promise more choice and flexibility for consumers.** Copyright owners and technology providers are investing heavily in new technologies to provide consumers with more choices and greater control over how they access and use digital content, while also protecting that content throughout the digital distribution chain. But that investment presumes a market for such technologies—a market that will dry up if such technologies fail to provide any meaningful protection as a result of widespread attacks and a proliferation of DRM-defeating devices.

Indeed, the concern underlying these measures, that copyright owners will use technology to prevent consumers from having convenient access to works, is simply unfounded. The marketplace has historically responded to consumer demands and will continue to do so by creating flexible, adaptive systems that meet consumer expectations while protecting copyright. For example, the growth and popularity of high-quality digital cable and satellite television has been made possible by the use of technological measures (such as encrypted signals and smart cards) to prevent unauthorized access to copyrighted programming. There is every reason to believe that the same success will be seen with new transmission media like the Internet—provided the marketplace-developed protection systems are not undermined by circumvention devices and activities that would be legalized by the proposed bills.

America's copyright industries invest enormous resources in providing the public with the high quality programming, entertainment, and information products they demand. This high quality creative content exists because of the market foundation on which it has been built. Our multi-billion dollar community, employing millions of individuals—many of whom are hired on a freelance basis—depends on an economic model that relies in large part on profits from resale rights both in the United States and abroad. Not only content owners, but also directors, actors, writers, performers, photographers, distributors, laborers and others all depend on the existence of that revenue stream for their compensation and their ability to produce and distribute new works. If the copyright industries are to provide this high-quality content, that content needs to be protected so that content providers and artists can be justly compensated and, in turn, continue in its production. To do otherwise threatens the jobs of over four million Americans that are employed in the copyright industries.

The copyright community contributes more to the American economy than any single manufacturing sector, generating more international revenues than even the tremendous international revenues from automobiles and auto parts, aircraft, and agriculture, and accounting for more than five percent of the Nation’s GDP. It produces jobs at three times the annual rate of the American economy as a whole. Furthermore, the copyright industries have a surplus balance of trade with every country in the world, at a time when the nation suffers from $400 Billion in annual trade deficits. No other industry can make that claim.

These proposed pieces of legislation, while perhaps well intentioned, pose a grave threat to American consumers and the continued vitality of an integral part of this Nation's economic
health. For these reasons, we urge you to seriously consider the adverse effects of these proposals and, instead, opt to protect consumer choice and encourage innovation.

Sincerely,

AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS

AFMA

ASSOCIATION OF AMERICAN PUBLISHERS

BMI

DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO

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SCREEN ACTORS GUILD

THE SONGWRITERS GUILD OF AMERICA

WRITERS GUILD OF AMERICA, WEST