

WRITTEN STATEMENT FOR
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on behalf of the
Entertainment Industry Coalition for Free Trade (EIC)
BEFORE THE SENATE FINANCE COMMITTEE

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Mr. Chairman and Senator Baucus, on behalf of Warner Bros., our parent company Time Warner, and the broader Entertainment Industry Coalition for Free Trade (EIC), thank you for the opportunity to appear before you today to discuss the benefits of the U.S.-Australia and U.S.-Morocco Free Trade Agreements. Our company, the Entertainment Industry Coalition, and the U.S. workers we represent, strongly believe that both of these agreements will create great opportunities for our businesses to increase our exports, and create jobs and additional revenue in the United States. As an indication of our own company's strong support for both agreements, Time Warner has served as co-chair for the America-Australia Free Trade Agreement Coalition (AAFTAC), and in the same role for the U.S.-Morocco Free Trade Agreement business coalition. In that capacity, and as an industry that will benefit greatly from both agreements, we ask Congress to act quickly to vote in favor of both the Australia and Morocco FTAs.

Warner Bros., through Time Warner, is a member of the EIC which represents the interests of men and women who produce, distribute, and exhibit many forms of creative expression, including theatrical motion pictures, television programming, home video entertainment, recorded music, and video games. Our members are multi-channel programmers and cinema owners, producers and distributors, guilds and unions, trade associations, and individual companies.

Our members include AFMA; BMG Music; Directors Guild of America; EMI Recorded Music; Interactive Digital Software Association; The International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada, AFL-CIO, CLC (IATSE); Metro-Goldwyn-Mayer Studios Inc.; Motion Picture Association of America; National Association of Theatre Owners; New Line Cinema; the News Corporation Limited; Paramount Pictures; Producers Guild of America; Recording Industry Association of America; Sony Music Entertainment Inc.; Sony Pictures Entertainment Inc.; Television Association of Programmers (TAP) Latin America; Time Warner; Twentieth Century Fox Film Corporation; Universal Music Group; Viacom; Universal Studios; the Walt Disney Company; Warner Bros.; Warner Music Group; and The Writers Guild of America, west (WGAW). Additional information regarding our membership can be found in the attached document: “***The Entertainment Industry Coalition for Free Trade: WHO WE ARE.***”

The goal of the EIC is to work with policymakers to highlight the importance of free trade for the US economy, the positive economic impact of international trade on the entertainment community, and the role of international trade negotiations in ensuring strong intellectual property protections and improved market access for our products and services.

The entertainment industries are one of the US economy's greatest assets. Based on Department of Commerce statistics, the copyright industries comprise more than 5% of the nation's GDP. We bring in more international revenues from exports than aircraft, agriculture, automobiles and auto parts. And we are creating new jobs at three times the rate of the rest of the economy. The movie industry alone has a surplus balance of trade with every single country in the world that exhibits our films. No other American enterprise can make that statement.

Unfortunately, America's creative industries are under attack. Piracy of copyrighted materials has had a devastating impact, and the impact has grown in recent years with the advance of digital technology. Losses from physical and online piracy in the industry have reached staggering levels, estimated in 2002 at well above \$25 billion. While the digital revolution has created new ways for all of us to reach consumers with compelling content, and for consumers in turn to access it from almost anywhere, this same technology has also facilitated the efforts of those who steal the innovation and creativity of others. Without strong protections, our ability and the rest of the entertainment industry's ability to continue to expand jobs, revenue and exports in the international community will be jeopardized.

Market access barriers also plague segments of the entertainment industries. High tariffs on our products, discriminatory customs valuation disciplines, quotas and discriminatory restrictions on the ability to produce and distribute our products prevent the entertainment industries from competing in many markets which pirates readily exploit.

These troubling trends increase the importance of international trade agreements. In addition to updating traditional copyright protections, our industry needs new agreements that otherwise keep pace with changes in technology. The Australia and Morocco Free Trade Agreements are two such agreements.

While Australia and Morocco are very different countries with very different economies and patterns of trade with the United States, both of the FTAs provide important opportunities for U.S. exporters, including Time Warner and the entire entertainment and media industry sector. Both agreements include strong intellectual property rights protections that will allow our industry to continue to grow and prosper, and they also recognize emerging technologies and the impact that these technologies can have on our businesses. Both agreements have important market access provisions that will allow for increases in trade in our products and services.

Trade agreements have traditionally focused on market access because tariff barriers were the first obstacles facing potential exporters. Through a focused and successful effort, most notably through the Uruguay Round negotiations in the WTO that concluded in 1995, market access barriers throughout the world have steadily decreased, but regrettably barriers do still exist, particularly in the trade in audiovisual products and

services. Through the recent FTAs that the United States has pursued with countries throughout the world, including FTAs with Chile and Singapore, important strides have been made to eliminate barriers to trade in entertainment goods and services. The agreements with Australia and Morocco are no exception. In fact, they are important statements to the rest of the global trading community that commitments in trade in cultural products can be reflected in agreements with high standards.

More specifically, both agreements provide for zero tariffs on all movies, music, consumer products, books, and magazines, as well as all the inputs that go into making these products. In addition, commitments have been made to provide zero tariffs on technology products used by service providers and consumers to access the Internet – which has become an important new medium for providing consumers access to our content. Finally, both agreements contain important precedent-setting language on customs valuation that addresses unfair valuation of media products in other markets around the world. These market access provisions will help Warner Bros., Time Warner, and the broader entertainment community, increase exports of our products to these markets.

Both agreements also provide for improved market access for all the services that we provide internationally including, but not limited to, computer and related services, telecommunications services, audiovisual services, advertising, and distribution services such as wholesaling, retailing and franchising. On audiovisual services in particular, Australia has agreed to first-time trade commitments that lock in our current market access, as well as cap future restrictions in digital delivery of our content. Morocco too has made first-time trade commitments covering all AV products. The fact that two

countries which previously had strongly argued for carving out our sector from trade agreements have now made commitments in that area is a major economic benefit for U.S. exports. Specifically, both agreements contain provisions ensuring market access for U.S. films and television programs over a variety of media, including cable, satellite, and the Internet. The agreements also include commitments for non-discriminatory treatment of digital products, including DVDs and CDs, as well as a commitment not to impose customs duties on these products when digitally delivered.

Breaking down market access barriers and creating a duty-free system of trade between our countries presents opportunities for increased trade. But, the entertainment and media industries cannot survive without strong protections and enforcement of our intellectual property rights. The value of our products, and our investments in them, is undermined with every unchecked case of piracy. These two FTAs set a high bar for IP protections that should be a part of any future trade agreement that the United States negotiates. Significantly, in Australia and Morocco, we have both a developed and a developing country clearly recognizing through their commitments in both trade agreements that high-standard and up-to-date IPR protection and enforcement is an essential basis for trade.

Both agreements meet the challenge by including provisions that go beyond the Trade Related Intellectual Property Rights (TRIPs) Agreement in the WTO by ensuring that products in the digital economy receive world-class IP protections. Specifically, both Australia and Morocco have agreed to implement the WIPO Internet Treaties, including through effective anti-circumvention provisions that prohibit tampering with technologies used to prevent piracy and unauthorized Internet distribution. In addition,

the agreements include provisions ensuring that all copyright owners have the exclusive right to make their works available online and protecting copyrighted works for longer terms, in line with emerging international trends.

Perhaps most importantly, these FTAs strengthen IP enforcement, which is the only way to make the legal IP regime have any real value. In this regard, Australia and Morocco have provided strong deterrence against piracy and counterfeiting by increasing criminal and civil protections against unlawful decoding of encrypted satellite TV signals, and criminalizing end-user piracy. The agreements also require both countries to authorize the seizure, forfeiture, and destruction of pirated products (and the equipment used to produce them), and unauthorized goods-in-transit, deters violators from using ports or free trade zones to traffic in pirated products. These measures by our trading partners will provide content providers, like Warner Bros. and the rest of the entertainment industry, with the increased protections and enforcement desperately needed to safeguard our investments and the jobs that are supported through the licensing, sales, export, and distribution of our products.

Time Warner's top trade policy priority is ensuring market access for our products and services, and protection of our intellectual property through strengthened laws and strong enforcement measures. The Australia and Morocco agreements meet these goals, and we at Warner Bros. and the rest of the Time Warner family, together with the entire entertainment industry, strongly support the passage of each of the U.S.-Australia and U.S.-Morocco FTAs. Both agreements represent great opportunities for our businesses and our employees to continue to compete and grow in the world market.

Thank you, Mr. Chairman and Senator Baucus for this opportunity to appear before you today. I would be happy to answer any of your questions.



Entertainment Industry Coalition
For Free Trade

WHO WE ARE

AFMA

AFMA is the worldwide trade association of the independent film and television industry. Our Members represent all facets of the independent film and television industry including sales, production, distribution and financing. AFMA also hosts the American Film Market, the world's largest film market, where more than \$500 million dollars in film license transactions are concluded annually. International exports of film, television and video/DVD rights are a major aspect of the business of AFMA Members and constitutes about \$2.6 billion dollars in annual sales.

DGA

The Directors Guild of America (DGA) represents 12,500 directors and members of the directorial team who work in feature film, filmed/taped/and live television, commercials, documentaries, and news. DGA members include Film and Television Directors, Unit Production Managers, Assistant Directors, Associate Directors, Technical Coordinators, Stage Managers and Production Associates. DGA seeks to both protect and advance directors' economic and artistic rights and preserve their creative freedom.

IATSE

The International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada, AFL-CIO, CLC (IATSE) is an International Union that represents over 100,000 members employed in the stage craft, motion picture and television production, and trade show industries throughout the United States, its Territories and Canada.

The ESA

The Entertainment Software Association is the U.S. association exclusively dedicated to serving the business and public affairs needs of companies that publish video and computer games for video game consoles, personal computers, handheld devices and the Internet. IDSA members collectively account for more than 90 percent of the \$6.9 billion in entertainment software sales in the United States in 2002, and billions more in export sales of American-made entertainment software.

MPAA

The Motion Picture Association (MPAA) is a trade association representing seven of the largest producers and distributors of theatrical motion pictures, home video entertainment and television programming: Walt Disney Company; Metro-Goldwyn-Mayer Studios Inc.; Paramount Pictures; Sony Pictures Entertainment Inc.; Twentieth Century Fox Corporation; Universal Studios; and Warner Bros.

NATO

The National Association of Theatre Owners (NATO) is the largest trade association in the world for the owners and operators of motion picture theatres. NATO represents over 500 movie cinema companies located in the United States and in 40 countries around the world. These companies range from large national and international circuits with thousands of movie screens, to hundreds of small business operators with only a few movie screens. NATO maintains its main office in North Hollywood, California, and a second office in the Washington, D.C. area.

PGA

The Producers Guild of America represents nearly 2,000 producers and members of the producing team in film, television and new media. Under the leadership of Kathleen Kennedy, the PGA strives to provide employment opportunities for its members, combat credit proliferation within film and television, and represent the interests of the entire producing team. The producing team consists of all those whose interdependency and support are necessary for the creation of motion pictures and television programs. The producing team includes Producers, Executive Producers, Co-Executive Producers, Supervising Producers, Co-Producers, Associate Producers, Segment Producers, Production Managers, Post-Production Supervisors and Production & Post-Production Coordinators.

RIAA

The Recording Industry Association of America is the trade group that represents the U.S. recording industry. Its mission is to foster a business and legal climate that supports and promotes our members' creative and financial vitality. Its members are the record companies that comprise the most vibrant national music industry in the world. RIAA® members create, manufacture and/or distribute approximately 90% of all legitimate sound recordings produced and sold in the United States. In support of this mission, the RIAA works to protect intellectual property rights worldwide and the First Amendment rights of artists; conduct consumer industry and technical research; and monitor and review - - state and federal laws, regulations and policies. The RIAA® also certifies Gold®, Platinum®, Multi-Platinum®, and Diamond sales awards, Los Premios De Oro y Platino®, and award celebrating Latin music sales.

TAP

The Television Association of Programmers (TAP) Latin America is a trade association comprising 35 pan-regional subscription programming suppliers serving Latin America and the Caribbean. The Association, founded in 1995, provides a voice in the region for its members and facilitates the exchange of ideas and information on issues affecting the Latin American marketplace. TAP's headquarters are in Miami, and it maintains a network of legal counsel and industry representatives throughout the region.

WGAW

The Writers Guild of America, west (WGAW) is a labor union that represents writers in the motion picture, broadcast, cable and new technologies industries. Our 8,500 members of the write for news, entertainment, animation, informational, documentary, interactive on-line services, CD-ROM and other new media technologies. We represent writers in a variety of arenas in addition to traditional bargaining. With representatives in Washington D.C. - as well as other countries - the WGAW furthers the interest of writers through legislation, international agreements and public relations efforts.