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Citation: 5 William H. Manz Federal Copyright Law The Histories of the Major Enactments of the 105th S12378 1999

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the music—music publishers, composers, and/or songwriters—from the proceeds. Because the rates charged by the two biggest PROs, ASCAP and BMI, are monitored by the Rate Court of the U.S. District Court of the Southern District of New York, the rates today amount to a very small amount per annum per business. The rates are even smaller for the kinds of performances covered by title II of the bill—performances of music over television and radio sets that businesses turn on for the benefit of their customers. And, as I said, "mom-and-pop" establishments do not have to pay anything. Nevertheless, some have sought for over 3 years to eliminate the licensing of music that arrives in a business establishment through the reception of radio and TV signals.

I have a stellar record in supporting legislation that benefits small business, but this includes songwriters, who themselves are small businesses. I have yet to discover a reason to eliminate or even reduce the charge for the commercial use of some one else's property. In my view, property is property whether it's dirt or intangible, and I have always been a defender of property rights.

The associations that want to eliminate the public performance right for business establishments have held up passage of copyright term extension for more than three years, although they had no quarrel with copyright term extension on its merits. Since copyright term extension is so important to America, Mr. President, I began a series of negotiations last year to try to resolve the problem. Other negotiations were begun by others, and, in the end, a compromise was worked out. This compromise is included in title II of the bill.

Title II greatly expands the current "mom-and-pop" exemption in the Copyright Act. Indeed, data supplied by the Congressional Research Service reveals that over 65.2% of restaurants will be exempt.

But lest we think that the music licensing issue has been put to bed, I want to sound a note of caution. Despite the months of negotiations that produced title II, an unanticipated problem popped up just as a compromise was reached—the exemption contained in title II applies to radio broadcasts licensed by the FCC and does not cover Internet radio. We did not have time to address this problem, and, frankly, the novel nature of Internet radio precluded a simple solution. This issue concerns me, however, and I will turn to the music licensing question again in the future, if I see that a disparity exists between FCC-licensed radio and Internet radio. I would not want businesses to turn away from new technology because of artificial forces acting on the market. If we do turn to this question, we may discover that it is impossible to integrate Internet radio and TV into the exemption without modifying its scope.

Nevertheless, Mr. President, on balance, S. 505 is a good bill. I'm glad it passed, and I'm glad that a compromise was worked out on music licensing to allow the copyright term to be extended. I thank all who had a hand in the solution.

WIPO COPYRIGHT TREATIES IMPLEMENTATION ACT CONFERENCE REPORT

Mr. GRAMS. I rise in support of the WIPO Copyright Treaties Implementation Act Conference Report adopted by the Senate on October 8, and commend the Senator from Utah for his efforts in crafting legislation that will greatly aid American copyright owners and users in the digital world. This legislation is of great importance to the citizens of Minnesota, including many companies that produce copyrighted materials as well as the hard-working men and women employed by them.

As the Senator form Utah is also aware, however, I have a great interest in Senate action to protect database owners, to continue the availability of quality and reliable products and services for users here and abroad. Earlier this summer, I introduced S. 2291 to provide this protection, and worked to include this language into the WIPO Implementing legislation. I greatly regret this legislation could not be included as part of this Conference Report.

Would the Senator from Utah and his colleagues on the Judiciary Committee agree to take up this issue as a priority item early in the 106th Congress? I believe we need fair and balanced database protection legislation, similar to S.2291.

Mr. HATCH. I thank the Senator from Minnesota for his comments. This will be a top priority for the Committee next year. I intend to hold a hearing on database legislation and move for prompt consideration in the 106th Congress.

Mr. GRAMS. I thank the Senator from Utah and look forward to working with you early next year.

TRIBUTE TO SENATOR DIRK KEMPTHORNE

Mr. DOMENICI. Mr. President, it is with great pride and honor that I rise today to pay tribute to my retiring colleague from Idaho, Senator DIRK KEMPTHORNE. In his six years of service to the United States Senate, he has proven himself to be a very thoughtful and determined leader and I am honored to have the opportunity to rise and speak on his accomplishments.

It was a pleasure to work with Senator KEMPTHORNE as he crafted one of the most important bills we have passed in the United States Senate, the Unfunded Mandates bill. I was particularly pleased that the private sector was included in the assessment of Unfunded mandates and DIRK was generous and extraordinarily helpful to me and my staff throughout the legislative process as we developed and negotiated this legislation. Not only did the junior Senator from Idaho manage two weeks of debate on the Senate floor which sometimes lasted 12 hours a day, but his skillful leadership and influence brought affected parties to the table to negotiate and produce legislation which passed both the House and Senate by overwhelming margins. Clearly, without his strong commitment to American small businesses, this objective would not have been achieved.

In addition to his service on the Small Business Committee and Armed Forces Committee, Senator KEMPTHORNE was given the responsibility of chairing the Drinking Water, Fisheries, and Wildlife subcommittee of the Environment and Public Works Committee. He wrote an update of the Safe Drinking Water Act which won bipartisan praise. He worked many long and arduous hours crafting legislation to reauthorize and reform the Endangered Species Act, an issue extremely important New Mexico and other WesternStates. DIRK's perseverance and hard work was instrumental in laying the groundwork for long overdue reform of this law and I am hopeful that we can be as diligent and compromising as he has been in crafting and passing ESA reform legislation in the future.

The state of Idaho is fortunate to have a statesman of his caliber. During his tenure, he has earned the respect and admiration of his colleagues on both sides of the aisle because of his unique ability to negotiate, compromise, and foster positive working relationships not only with his colleagues, but between federal, state, and local governments. These skills will serve him well as he faces new challenges in the future. Although we will miss his presence in this body, I know that he will continue to be a valuable asset not only to the state of Idaho but to this Nation.

Finally, I understand the challenges and difficulties associated with raising a family while serving in Congress and I respect and admire his decision to do what is right for his family and their future. Nancy and I wish DIRK, Patricia, and their children all the best.

TRIBUTE TO SENATOR JOHN GLENN

Mr. DOMENICI. Mr. President, I would like to pay tribute on my behalf, and on behalf of the people of New Mexico, to a true American patriot, Senator JOHN GLENN. It has indeed been a privilege to serve in this Chamber for 24 years with a man of such honor and distinction.

Although I only served with Senator GLENN on the Senate Governmental Affairs Committee for a brief time, I have been able to witness firsthand JOHN GLENN's legendary fairness and leadership. I doubt there has ever been a Senator who could match his dogged determination. He worked tirelessly for

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