

goods or not. Therefore, many times such counterfeit goods are seized one day, only to be returned and sold to an unsuspecting public. To ensure that individuals engaging in the practice of trafficking in counterfeit marks cannot reopen their doors, H.R. 32 establishes procedures for the mandatory seizure, forfeiture, and destruction of counterfeit marks prior to a conviction. Further, it provides for procedures for the mandatory forfeiture and destruction of property derived from or used to engage in the trafficking of counterfeit marks.

When this legislation was sent over to the Senate from the House, concerns were raised to Senator LEAHY and myself about the language in Section 2(b)(1)(B) of this bill pertaining to the forfeiture authority of the U.S. Department of Justice. In focusing our attention to this section, we discussed the scope of the facilitation language, which parallels the drug and money laundering forfeiture language in 21 U.S.C. 853 and 18 U.S.C. 982, respectively, and how it might relate to Internet marketplace companies, search engines, and ISPs. Specifically, we were aware of concerns regarding the potential misapplication of the facilitation language in section 2(b)(1)(B) to pursue forfeiture and seizure proceedings against responsible Internet marketplace companies that serve as third party intermediaries to online transactions.

Mr. LEAHY. Section 2(b)(1)(B) authorizes U.S. attorneys to pursue civil in rem forfeiture proceedings against "any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a)." The intent of this language is to provide attorneys and prosecutors with the authority to bring a civil forfeiture action against the property of bad actors who are facilitating trafficking or attempts to traffic in counterfeit marks. The forfeiture authority in section 2(b)(1)(B) cannot be used to pursue forfeiture and seizure proceedings against the computer equipment, Web site, or network of responsible Internet marketplace companies, which serve solely as a third-party to transactions and do not tailor their services or their facilities to the furtherance of trafficking or attempts to traffic in counterfeit marks. However, these Internet marketplace companies must make demonstrable good faith efforts to combat the use of their systems and services to traffic in counterfeit marks. Companies must establish and implement procedures to take down postings that contain or offer to sell goods, services, labels, and the like in violation of this act upon being made aware of the illegal nature of these items or services.

It is the irresponsible culprits that must be held accountable. Those who profit from another's innovation have proved their creativity only at escaping responsibility for their actions. As legislators, it is important that we pro-

vide law enforcement with the tools needed to capture these thieves.

Senator SPECTER, it is also my understanding that the U.S. Sentencing Commission recently promulgated new Federal sentencing guidelines to account for the changes in how intellectual property crimes are committed. Could you clarify for the record why we have authorized the U.S. Sentencing Commission to further amend the Federal sentencing guidelines and policy statements for crimes committed in violation of title 18, section 2318 or 2320, of the United States Code?

Mr. SPECTER. As Senator LEAHY is aware, periodically the Sentencing Commission has sought to update the Federal sentencing guidelines upon the periodic directive of Congress to reflect and account for changes in the manner in which intellectual property offenses are committed. The recent amendments to which you refer were promulgated by the Sentencing Commission pursuant to the authorization in the Family Entertainment and Copyright Act of 2005, also known as FECA. These amendments to the Federal sentencing guidelines, which took effect on October 24, 2005, address changes in penalties and definitions for intellectual property rights crimes, particularly those involving copyrighted prerelease works and issues surrounding "uploading." For example, these guidelines provide for a 25 percent increase in sentences for offenses involving prerelease works. In addition, the Commission revised its definition of "uploading" to ensure that the guidelines are keeping up with technological advances in this area.

I would like to make it clear for the record that the directive to the Sentencing Commission in section 3 of H.R. 32 is not meant as disapproval of the Commission's recent actions in response to FECA. Rather, section 3 covers other intellectual property rights crimes that Congress believes it is time for the Commission to revisit. Specifically, section 3 directs the Commission to review the guidelines, and particularly the definition of "infringement amount," to ensure that offenses involving low-cost items like labels, patches, medallions, or packaging that are used to make counterfeit goods that are much more expensive are properly punished. It also directs the Commission to ensure that the penalty provisions for offenses involving all counterfeit goods or services or devices used to facilitate counterfeiting are properly addressed by the guidelines. As it did in response to the No Electronic Theft Act of 1997 and FECA, I am confident that the Commission will ensure that the Federal sentencing guidelines provide adequate punishment and deterrence for these very serious offenses, and I look forward to the Commission's response to this directive.

Mr. LEAHY. Senator SPECTER, thank you for that clarification. As you are aware, there has been overwhelming

support for this legislation. It has been very heartening to see such overwhelming support for this important bill. Counterfeiting is a threat to America. It wreaks real harm on our economy, our workers, and our consumers. This bill is a tough bill that will give law enforcement improved tools to fight this form of theft. The bill is short and straightforward, but its impact should be profound and far-reaching.

Mr. SPECTER. At this point, I would like to take this opportunity to thank like to thank Representative JIM SENBRENNER, Chairman of the House Judiciary Committee, and Representative JOE KNOLLENBERG for their leadership in the House with regard to H.R. 32. In January of 2005, Representative KNOLLENBERG introduced H.R. 32 in the House. When the bill was in Committee, he fostered negotiations between the Department of Justice, the U.S. Chamber of Commerce, and the International Trademark Association to ensure that it passed the House. I would also like to thank my colleague Senator LEAHY, ranking member of the Senate Judiciary Committee, and Senators ALEXANDER, BAYH, BROWBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW, and VOINOVICH for their cosponsorship of S. 1699, the companion legislation to H.R. 32. It is through the hard work of all of these Members that we were able to achieve truly bipartisan support for language that will ensure the protection of American-held trademarks.

Mr. LEAHY. Some of our most important legislation is produced not only when we reach across the aisle in the name of bipartisanship but when we work across chambers and reach true consensus. I would also like to thank Senators ALEXANDER, BAYH, BROWBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW and VOINOVICH for their cosponsorship of the Senate companion legislation. Counterfeiting is a serious problem that does not lend itself to a quick and easy solution. This legislation is an important step toward fighting counterfeiting. I hope we can build on the success of this law.

PRINCIPLES OF TELECOM REFORM

Mr. NELSON of Nebraska. Mr. President, when the last major telecommunications bill was passed in 1996, fewer than half of American households owned a computer, only one out of four owned a cell phone or had Internet access, almost no one had residential broadband Internet access, and Internet commerce was in its infancy. Regulations were based on the assumption that telephone networks only offered voice service, cable television networks only offered video service, and the Internet only offered data service. Today, however, many cable systems offer Internet access and phone service,

telephone networks support Internet access and will soon offer video, and the Internet supports an amazing variety of applications.

I believe reform to our telecommunications laws is needed, and we should make reform a priority. It is time to tear down regulatory barriers between telephone, wireless, video, and the Internet to unleash innovation and encourage private investment.

I applaud the leadership of Senators STEVENS and INOUE on the Senate Commerce Committee in scheduling an ambitious slate of hearings to address telecom reform. As the hearings begin, I want to outline some basic principles I would like to see embodied in any reform legislation that moves forward out of committee.

In order to tap the infinite potential technology has to improve the way we communicate, I believe we should do the following:

No. 1, eliminate regulatory barriers that hinder innovation and encourage private investment in new telecommunications facilities and services; No. 2, streamline video franchising requirements to facilitate greater consumer choice of video providers, while allowing municipalities to protect community interests; No. 3, encourage a favorable regulatory environment for robust competition among communications providers, while protecting consumers' access to content and services; No. 4, allow for the development of uniform consumer protection standards, while recognizing the importance of State and local regulators in addressing consumer concerns; and No. 5, use the public spectrum to promote development of new wireless communications services such as broadband Internet.

Any telecom reform must address the needs of every American consumer regardless of where they live. Rural areas like Nebraska cannot be left behind. I believe that technology holds enormous economic promise to rural America, and innovation and competition must be encouraged in even the most remote areas of our country. Therefore I advocate that reform legislation do the following:

No. 1, ensure the stability of the Universal Service Fund in order to preserve affordable telephone service in rural areas, and for all Americans, as well as to continue support for schools, libraries and rural health care providers; No. 2, promote private investment in and deployment of broadband Internet and other advanced telecommunications services, in rural America; and No. 3, encourage increased wireless coverage and introduction of new wireless services to rural America.

In order for the United States to be a leader in the global economy, we must modernize our telecommunications laws to ensure we are fostering investment, innovation, and competition and not impeding progress. We also must ensure that everyone—regardless of

where they live—benefits from modernization of our telecom laws.

I believe we must act now to protect our place in the world as a leader in communications, and I look forward to the debate on this very important issue.

CELEBRATING BLACK HISTORY MONTH

Mr. FEINGOLD. Mr. President, this year, as we celebrate Black History Month, we also mourn the loss of two great civil rights leaders: Rosa Parks and Coretta Scott King.

These women were both pivotal figures in the civil rights movement, leaders who inspired all of us with their commitment, their dignity, and their incredible courage.

Both dedicated their lives to the cause of freedom—to ridding the South of the cruelty of segregation and ridding our society of the scourge of racism.

Both lived to see tremendous progress in America and both lived to see how much is still left undone.

As we mourn the passing of these heroic figures of the civil rights movement, we must ensure that the cause of justice for which they worked so hard, and sacrificed so much—marches on.

As we mourn these great leaders, and celebrate their lives, we must also ask ourselves what we can do to honor the contributions they made, and the way they worked to transform our Nation. I am reminded of something Rosa Parks once said about Dr. King. She was concerned that, while the birthday of Dr. King had become a national holiday, he was being depicted as merely, “a dreamer.” As I remember him,” she said, “he was more than a dreamer. He was an activist who believed in acting as well as speaking out against oppression.”

Once again, Rosa Parks was right: It is not only Dr. King's dream that endures, although it does endure, and has given strength to so many. It is the actions of Dr. King, and Coretta Scott King, and Rosa Parks, and the actions of so many millions of others, that have brought us forward in an inexorable march to freedom.

Dr. King said it himself, in a different way, when he spoke about the Montgomery Bus Boycott: “We came to see that, in the long run, it is more honorable to walk in dignity than ride in humiliation. So, in a quite dignified manner, we decided to substitute tired feet for tired souls, and walk the streets of Montgomery.”

They met injustice with action. They walked in dignity, for 381 days, until they met with victory. And today we, too, must move forward on the civil rights issues that press us to action—on racial profiling, on voting rights, on the death penalty; and also on access to good education and good health care, on addressing the HIV/AIDS crisis, and all the issues where inequality still plagues our Nation.

Dr. King, Coretta Scott King, Rosa Parks—they, and so many others, would rather have tired feet than tired souls, and so must we.

During Black History Month, as we pay tribute to their accomplishments, and as we rededicate ourselves to the goals we have yet to achieve, we know that those great Americans would never be complacent, would never tire, would never be satisfied with anything less than justice. And neither must anyone in this body, or in this country.

We must commit to walk on together in that march for equality in this country, and justice in this world, resolving that we, too, may have tired feet but never a tired soul.

ADDITIONAL STATEMENTS

TRIBUTE TO PACCAR, INC.

• Ms. CANTWELL. Mr. President, I rise today to celebrate a great American innovator.

It is a special pleasure to recognize an exceptional company which today has earned the prestigious National Medal of Technology, the highest honor given in our Nation for technological innovation. PACCAR Incorporated is a model of success and a Washington State institution. In 2005, the company celebrated its 100th year in business. You might not recognize the PACCAR name, but perhaps you have heard of some of PACCAR's finest brands: Kenworth and Peterbilt trucks.

PACCAR is one of our Nation's top truck manufacturers and today they are cited for: “pioneering efforts and industry leadership in the development and commercialization of aerodynamic, lightweight trucks that have dramatically reduced fuel consumption and increased the productivity of U.S. freight transportation.”

This National Medal is a distinct honor bestowed by the President since 1985. It was first mandated by Congress in 1980, established to recognize the significant contributions that America's leading innovators have made to the Nation's economic strength and standard of living. The award is given annually to individuals, teams, and/or companies or divisions whose work has made a lasting impact on our lives through the development and commercialization of groundbreaking technology in our Nation.

Past recipients include leaders in our Nation's cutting-edge science and high-tech communities—companies such as Dow, Dupont, and Corning or individuals such as those who have performed the first human heart transplant and invented the first whole-body CT scanner. The National Medal serves to honor the legacy of innovation that has made our Nation a technological leader for more than two centuries. And it seeks also to inspire the future generations of innovators who will keep our Nation strong for years to come.