

ACPERA addressed this shortcoming in the criminal leniency program by also limiting the cooperating party's exposure to liability with respect to civil litigation. ACPERA empowers the Justice Department to limit civil liability of a cooperating party to single damages, not treble. The remaining co-conspirators, however, remain jointly and severally liable for all damages. In this way, Mr. Speaker, the act strikes a carefully crafted balance, encouraging the cartel members to turn on each other while ensuring full compensation to the victims.

The positive impact of this law cannot be overstated. In the first half of this year, ACPERA has aided the anti-trust division in securing jail sentences in 85 percent of its individual prosecutions and over \$900 million in criminal fines.

As chairman of the Judiciary Committee's Subcommittee on Courts and Competition Policy, I want to ensure that the Justice Department has all the tools it needs to continue its excellent work, which is to protect consumers against price-fixing cartels.

Again, I thank the bipartisan coalition of Members who have joined me as cosponsors in this very important legislation. I urge my colleagues to support this legislation.

I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this time I would like to inquire if the gentleman has any further speakers after I conclude?

Mr. JOHNSON of Georgia. We have no more speakers, and I would be prepared to conclude.

Mr. ISSA. Excellent. I will be brief.

This is noncontroversial. In fact, the Antitrust Criminal Enhancement Reform Act of 2009 is about a program that is working. It is a program that not only do I hope we will unanimously pass and send to the Senate, but that the Senate will act quickly so that after the 2 weeks remaining, this statute will not expire, and we will use this year wisely to review and reauthorize in a longer term basis this act.

ACPERA has in fact worked. It is something that both the majority and minority have agreed on, and I urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield back my time on this matter.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. JOHNSON) that the House suspend the rules and pass the bill, H.R. 2675.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## WEBCASTER SETTLEMENT ACT OF 2009

Mr. JOHNSON of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2344) to amend section 114 of title 17, United States Code, to provide for agreements for the reproduction and performance of sound recordings by webcasters.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2344

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Webcaster Settlement Act of 2009".

### SEC. 2. AUTHORIZATION OF AGREEMENTS.

Section 114(f)(5) of title 17, United States Code, is amended—

(1) in subparagraph (D), by striking "2008" and inserting "2008, the Webcaster Settlement Act of 2009,";

(2) in subparagraph (E)(iii), by striking "to make eligible nonsubscription transmissions and ephemeral recordings"; and

(3) in subparagraph (F), by striking "February 15, 2009" and inserting "at 11:59 p.m. Eastern time on the 30th day after the date of the enactment of the Webcaster Settlement Act of 2009".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. JOHNSON) and the gentleman from California (Mr. ISSA) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

### GENERAL LEAVE

Mr. JOHNSON of Georgia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. JOHNSON of Georgia. I yield myself such time as I may consume.

Mr. Speaker, the Webcaster Settlement Act of 2009 allows the recording industry and the providers of Internet radio, also known as Webcasters, to negotiate reasonable royalty rates for the streaming of sound recordings on the Internet.

While a relatively new technology, the audience for Internet radio is growing rapidly. Fifty to 70 million Americans listen to Internet radio each month, in part because of the diverse programming available to cater to many different musical tastes.

In 1995, Congress passed a digital performance right for sound recordings. In 1998, the Digital Millennium Copyright Act expanded the right to Internet radio services by granting them the privilege of using copyrighted music at an industry-negotiated rate, or in the event the industry could not negotiate a rate, at a government-mandated rate determined by the Copyright Royalty Board, or CRB.

At the request of Webcasters, in 2004 Congress enacted the Copyright Royalty and Distribution Reform Act,

which authorized a CRB proceeding to set fair statutory rates for Internet radio. Accordingly, in 2007, the CRB announced new statutory royalty rates for sound recordings to be paid by Webcasters.

The CRB's decision, which sets rates on a minimum fee, per-song, per-listener formula, would require Webcasters to pay significantly higher royalties than they previously paid under a percentage-of-revenue model.

Because of concerns that the higher rates are likely to threaten the future of Internet radio, Congress enacted the Webcaster Settlement Act of 2008. Signed into law last October, it allowed for the implementation of royalty fee agreements reached on or before February 15, 2009, between the recording industry and Webcasters that would serve as an alternative to the payment scheme set forth in the CRB decision.

While some Webcasters were able to reach consensus with the recording industry, others have not yet reached an agreement. Enactment of the Webcasters Settlement Act of 2009 will give more parties an opportunity to reach a consensus by allowing them to negotiate alternative rates. This opportunity to reach consensus will protect the viability of technology enjoyed by millions of Americans every day.

This legislation has the full support of the relevant parties. I commend the Internet radio and recording industries for the substantial progress that has been made in negotiations in recent months, and I encourage them to resolve all outstanding issues promptly so that we may see a thriving Internet radio industry in the near future.

I commend my colleague, Jay Inslee of Washington, for his leadership on this legislation, as well as Intellectual Property Subcommittee Chairman Howard Berman for facilitating discussions between the parties.

I would like to also commend Judiciary ranking member, Mr. LAMAR SMITH, for his leadership in making this a truly bipartisan effort, and I urge my colleagues to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, it is my pleasure to yield such time as he may consume for our response to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Speaker, I appreciate the gentleman from California yielding.

H.R. 2344, the Webcaster Settlement Act of 2009, grants limited statutory authority to SoundExchange, the government-designated entity that is responsible for disbursing Webcasting royalties to copyright owners.

The bill gives SoundExchange the legal authority to effect an agreement that has already been negotiated with certain "pureplay" Webcasters for the performance of sound recordings over the Internet.

□ 1400

Under the terms, the bill will provide a window of 30 days for other Webcasters to agree to be bound by this new agreement.

For those Webcasters who choose to take advantage, they will be able to substitute the rate and rate calculation methods provided in the agreement for those previously announced by the copyright royalty judges, CRJs, on April 30, 2007.

These new terms will run through the end of 2015, which means that this group of Webcasters and sound recording artists who are due royalties under the Webcasting licensing will benefit from the extended period of certainty in their economic relationship.

Mr. Speaker, I have a strong preference for voluntarily negotiating settlements, which allow each side to compromise, claim a measure of victory, and go home.

This is particularly true when the alternative is for parties to engage in lengthy and expensive adversarial legal and lobbying efforts such as those that have followed the CRJs' determination in the Webcasters proceedings in 2007.

When they issued their 117-page final order, the CRJs established the statutory rates and the terms for the performance of compulsorily licensed Internet streamed music for a 5-year period that is due to expire December 31, 2010.

The law provides this process because we have an obligation to ensure that copyright owners whose works are made available in a government-mandated license are fairly compensated by the private parties who seek to benefit from such use.

Indeed, the Judiciary Committee and the Congress established the CRJ process, in no small part, in response to Webcasters' concerns that the previous Copyright Arbitration Royalty Panel, or CARP, process effectively prohibited many small entities from participating.

Nevertheless, despite their advocacy for this process, some Webcasters have suggested from time to time that the CRJs acted unfairly in reaching their decision. But the record reveals that the decision came at the end of an 18-month proceeding that included 48 days of testimony, 192 exhibits, 475 pleadings, motions and orders, and a transcript that exceeded 13,000 pages.

Notwithstanding these facts, the Congress enacted the Webcasting Settlement Act of 2008 late last year to provide an additional period of time for parties to negotiate private agreements. That period expired February 15, 2009.

Several entities, including the National Association of Broadcasters, are to be commended for reaching an accord during this window, but it appears a number of others were either unable or unwilling to come to terms during the generous period of time that Congress provided.

Mr. Speaker, I urge my colleagues to support H.R. 2344, but in so doing, I

note that it seems a bit like the tail wagging the dog for Congress to legislate and create exceptions to the due process and notice requirements in the existing statutory process each time one party or another calculates they could get a better deal by disregarding the deadline the law provides.

Mr. JOHNSON of Georgia. Mr. Speaker, at this time, I would yield to my colleague from the great State of Washington, the Honorable JAY INSLEE, as much time as he may consume.

Mr. INSLEE. Mr. Speaker, I'm pleased to commend the Webcaster Settlement Act of 2009 to my colleagues.

I just want to make two or three points. First, this phenomenon of online radio is just a tremendous service for our constituents; 42 million Americans are enjoying this on at least a semiregular basis. It is growing rapidly. It is a very, very beloved service. And when it goes missing, as it did recently in my City of Seattle, a little station called OCO was sort of providing underground music to my local community and had to shut down as a result of the CRB decision, and it is much missed. We hope to get this and many other things back up when we get this settlement going.

Second, I think there is widespread agreement that the average 47 percent of revenues that the CRB decision would require simply is not sustainable for the industry. And I want to commend all parties to the discussions to try to find an appropriate way to move forward.

The third point I want to make is that keeping online radio going and healthy is not just about entertainment; it's about news, it's about public information, it's about emergency preparedness. We've got to do everything we can to give our constituents multiple sources of information. By allowing this bill to go through—and, hopefully, the parties will reach a final settlement—we're going to allow a democracy to blossom.

So I want to thank Chairman CONYERS and Ranking Member SMITH for their cooperation in facilitating this and commend this bill to my colleagues.

Mr. ISSA. Mr. Speaker, I now yield myself such time as I may consume.

Mr. Speaker, I strongly support this legislation and urge its passage, and I do so for a reason that I believe does tie fairly into another piece of legislation. This is a piece of bipartisan legislation with Chairman CONYERS. Another piece tries to deal with a greater inequity than even this one.

While Internet broadcasters or podcasters or Webcasters pay as much as half of their revenues, half of their gross revenues if they play performances of music, and NAB was cited as being a participant, let me make something very clear, Mr. Speaker. The National Association of Broadcasters has chosen to have an absolute "burn the bridge" attitude toward terrestrial broadcasters paying even a cent.

I join with Chairman CONYERS, Mr. BERMAN, myself, and many others, in urging that this pattern of lowering to what we believe is a more fair rate or helping lower to what we believe is a more fair rate, in fact, flies in the face of terrestrial broadcasters continuing to say that the only fair amount to pay in the way of royalties to the music producers, the actual performers, is zero.

The public today, Mr. Speaker, when they hear this, if they hear this, will be shocked to find out that when they listen to terrestrial radio, nothing is paid to the artist.

Well, if they listen to Internet radio, actually more than half in some cases of the gross revenues of these Internet broadcasters is paid to the performers.

As Mr. INSLEE said, I do believe that perhaps it is too much; that there is, in fact, a point at which, when you tax something too much, even if it's taxed to pay the performance, you may get too little of it. To that extent, we need to find an amount that balances fairly compensation for the creative artist who brought us this fine music and those who would seek to make it available to the public.

I hope that this piece of legislation will help for those doing business on the Internet and that H.R. 2344 will be quickly adopted and that it will lead to more affordable rates for the Internet.

But I cannot, in good conscience, fail to mention that these companies trying to start and promote a new industry and a service in many places in which terrestrial broadcasts may be poor or not available at all find themselves hampered while they pay half of their revenues out in royalties, competing against terrestrial broadcasters who insist on continuing to pay not a penny.

So, Mr. Speaker, I will look for this legislation to become law. I look for the other legislation behind it to be brought to the floor, fairly considered, and voted on in order to bring performance fairness.

I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I would join my colleague on the other side of the aisle in support of H.R. 848, which is the bill that you just mentioned, and the reason why is because it's just an issue of fairness. It's fairness to the artist as well as fairness to the platforms upon which we hear these sound recordings, Internet radio being one.

Cable, satellite, they have to pay performance royalties, which is really performers' royalties. They must pay that. But the broadcast industry, AM/FM radio, basically, is protected, if you will, or exempted from having to pay. This is anticompetitive, and it also results in great tragedy where these radio stations are able to play music repetitively that we all enjoy listening to, and then the artist who performs the music doesn't get a dime. And so many of them are forced to work what I call the "Chitlin Circuit" and, you

know, can't even purchase their prescription medication for diabetes, whatever infirmity that they may have. And then some even die indigent and there's no coverage for burial expenses.

And so it's really an issue of fairness. And unfortunately, the broadcast industry has done a despicable thing, and that is to play the race card. And they do it with the deceptive and false statement that H.R. 848 is an attempt to drive black broadcasters, black radio stations off, out of existence, and nothing could be further from the truth.

May I inquire though, Mr. Speaker, as to whether or not there are anymore speakers?

Mr. ISSA. Mr. Speaker, I have no further speakers at this time and would close quickly when the gentleman is ready.

Mr. JOHNSON of Georgia. Mr. Speaker, I will yield back.

Mr. ISSA. Mr. Speaker, I thank the gentleman from Georgia. I, again, reiterate my appreciation for his appropriate and wonderful statements on H.R. 848, a bill that would simply eliminate Congress' prohibition on the Copyright Royalty Board from reaching a fair and equitable royalty for performers.

I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CUMMINGS). The question is on the motion offered by the gentleman from Georgia (Mr. JOHNSON) that the House suspend the rules and pass the bill, H.R. 2344.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### CONDEMNING THE MURDER OF PRIVATE WILLIAM LONG

Mr. NADLER of New York. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 515) condemning the murder of Army Private William Long and the wounding of Army Private Quinton Ezeagwula, who were shot outside the Army Navy Career Center in Little Rock, Arkansas, on June 1, 2009.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 515

Whereas, on June 1, 2009, Private William Long, 23, was murdered outside the Army Navy Career Center in Little Rock, Arkansas;

Whereas, on June 1, 2009, Private Quinton Ezeagwula, 18, was wounded by gunfire outside the Army Navy Career Center in Little Rock, Arkansas;

Whereas there are more than 1,400,000 active component and more than 1,200,000 reserve component members of the Armed Forces protecting America;

Whereas there are more than 8,000 Army and Army Reserve recruiters and more than 7,000 Navy recruiters serving at more than

1,500 military recruiting stations and centers in United States, Guam, Puerto Rico, and Europe;

Whereas the men and women of the Armed Forces risk their lives every day to preserve America's freedom and to defend the liberty, security, and prosperity enjoyed by the American people;

Whereas service in the Armed Forces entails special hazards and demands extraordinary sacrifices from service members;

Whereas members of the Armed Forces are the targets of violence not only abroad but in the United States as well; and

Whereas such violence is despicable and must not be tolerated: Now, therefore, be it Resolved, That the House of Representatives—

(1) offers its condolences to the family of Private William Long;

(2) hopes for a full recovery for Private Quinton Ezeagwula;

(3) urges swift prosecution to the fullest extent of the law of the perpetrator of this senseless shooting; and

(4) urges the American people to join Congress in condemning acts of violence.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. NADLER) and the gentleman from Arizona (Mr. FRANKS) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

##### GENERAL LEAVE

Mr. NADLER of New York. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER of New York. Mr. Speaker, I now yield myself such time as I may consume.

Mr. Speaker, House Resolution 515 rightly condemns the murder of Army Private William Long and the wounding of Army Private Quinton Ezeagwula, who were shot outside the Army Navy Career Center in Little Rock, Arkansas, on June 1, 2009.

This dastardly attack on two young Americans who were simply standing outside the Armed Forces Recruiting Center where they worked should shock the conscience of all Americans.

Private Long, who was 23, was murdered. Private Ezeagwula, who is 18, was wounded. They had answered their call to service and were willing to lay down their lives for their country, but the deadly attack came here at home, not on a field of battle halfway across the world.

There are more than 1.4 million Active members of the Armed Forces protecting America, and more than 1.2 million Reserve members. There are more than 8,000 Army and Army Reserve recruiters, and more than 7,000 Navy recruiters, serving at more than 1,500 military recruiting stations and centers in the United States, Puerto Rico, Guam, and Europe. Each one of these men and women are courageous patriots who deserve our support, and this deadly attack is nothing short of dastardly.

This resolution offers the condolences of this House to the family of Private Long, expresses our hopes for a full recovery for Private Ezeagwula, and urges that the perpetrator or perpetrators of this senseless shooting be brought to justice.

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I want to commend our colleague, the gentleman from Arizona (Mr. FRANKS), for introducing this resolution. It is an appropriate statement of what I note to be the views of every Member of this House. At a time like this, it is important for all of us to stand together to support our men and women in uniform and to speak with one voice against violence directed against them.

I urge my colleagues to support this important resolution.

I reserve the balance of my time.

Mr. FRANKS of Arizona. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on June 1 of 2009, only about a week ago, Private William Long, only 23 years old, was shot and killed as he worked at the Army Navy Career Center, which is a military recruitment center, in Little Rock, Arkansas. Private Quinton I. Ezeagwula, age 18, was also shot in the attack that day. Thankfully, Private Ezeagwula survived; although our latest information is that he remains still in critical condition.

Mr. Speaker, most persons who are listening today are hearing about Private Long's death for the first time. It's likely that most Americans haven't heard of his killing because Private Long's murder forces the issue that the mainstream media does not want to confront or report on, and that is Islamic terrorism within and coming from within the United States.

The man accused of shooting Private Long and Private Ezeagwula was formally known as Carlos Bledsoe. Bledsoe converted to Islam and changed his name to Abdulhakim Mujahid Muhammad. He later traveled to Yemen where he was there studying under an Islamic scholar. Yes, Mr. Speaker, we have millions of law-abiding Muslims in this country. Acts of terror committed by some members of a religion should never be used to condemn all members of that religion. At the same time, however, we cannot be blind to the jihadist ideology of some Muslims of this country who believe that they have a religious duty to murder the innocent.

The mindset of radical Islamic terrorism which today seems to find fertile ground in the soil of jihad claims that the cause of justice is advanced by killing the innocent and by killing those who seek to protect the innocent. This is the fundamental reality. And when the American media and we, as a people, refuse to call evil by its name, it imperils us all and it dishonors all of those, like these two soldiers who have sacrificed and bled to protect the innocent from that evil.