

**Remarks of Commissioner Deborah Taylor Tate
At CURB Lecture
Vanderbilt University
“The Work of the FCC and the Music Industry”
November 1, 2007**

I. INTRODUCTION

Thank you all for the opportunity to be here today. It is always great to be back at Vanderbilt, and especially at the Curb Center. Mike and Linda Curb’s vision and dedication in founding this Center is truly an inspiration. How fortunate we are they chose Music City as their home. I thank them for their positive impact on our community and for their friendship. They are a great example of philanthropy and generosity. Bill Ivey’s leadership is also instrumental to the continued success of this organization. Curb’s mission to “design a new road map for cultural policy in America” has always been of particular interest to me, even before my time at the Federal Communications Commission. I particularly appreciate the Center’s efforts to engage policymakers in nonpartisan, public policy studies, such as the Arts Industries Policy Forum that the Center sponsors.

Many other Tennesseans are impacting public policy and I am pleased to interact with our Congressional delegation. I am grateful for the continued support of my first boss, Senator Lamar Alexander, as well as Congressmen Bart Gordon (e911) and Marsha Blackburn (commerce market) who both serve on the Commerce Committee, the oldest standing committee in Congress—that ironically has oversight over the FCC. They are

good friends, and great Americans. And we all miss Majority Leader Bill Frist, who served the state, and this country, well.

II. FCC AFFECTS ALL

Today I'm excited to share with you what the FCC is working on and how it affects each of your lives every day. You may think that most of what happens in DC, stays in DC, but that is certainly not the case with the work of the FCC. When I arrived at the Commission, I learned immediately that our work truly touches many aspects of the everyday lives of citizens in America and indeed around the world. Just last week, whether you read *The Tennessean*, published here in Nashville, or *USA Today*, you saw an article about the FCC's fight against indecency on the public airwaves, which maybe headed to the Supreme Court.

Some of the hot-button issues currently before the FCC specifically impact Nashville. For example, during the past year we approved the largest merger in telecom history, a \$67 billion deal, between AT&T and our own BellSouth. We joined President Bush at the signing of a bill increasing ten-fold the maximum fines against purveyors of indecent material, and we required wireless carriers to more accurately provide important Enhanced 911 (E911) services, especially the ability to help locate 911 callers. I know that many of you are interested in the proposed merger between satellite radio companies XM and Sirius. The FCC is in the process of considering this transaction. We are also continuing to look at the rules regarding media ownership. Over the last 18 months, we

have held a series of hearings across the country, including one right here in Nashville, to examine the impact media consolidation has on news. We are considering whether to relax the current limits on the number of television and radio stations a single entity can own in any one market, and also whether the existing ban on cross-ownership of a newspaper and television station is relevant and necessary.

Another issue on the table is the fundamental reform of the Universal Service Fund. We are committed to protecting this fund against waste and abuse, and ensuring it is available for the purpose it was intended—bringing telecommunications service to *all* areas of the country that are truly high cost. You contribute to USF every month on your phone bill, and regardless of the corporate firestorm against me personally, I am doing all I can to stop its untenable growth. We also continue to make broadband deployment one of the Commission’s top priorities. It is crucial to every local business and our global competitiveness. Deployment and penetration rates are definitely on the rise, but we must continue to ensure no one is left behind.

Most of you are probably not focused on February 17, 2009, the date of the digital television transition, or “DTV” transition. If you haven’t heard about the DTV transition in which broadcasting will go “all digital”, it is going to happen *in just 474 days*, so before you rush to buy a new tv, check out what you should know at www.dtv.org.

As many of you know, my professional career has focused on issues related to children and families-- from better schools, to increasing childhood immunizations, to my

work at Vanderbilt's Child and Family Policy Center. When I was appointed to the FCC, I didn't stop being passionate about issues regarding children and families, so I have continued working with industry on solutions to childhood obesity, finalizing our report to Congress on the impact of violence on children, and the serious issue of online safety. I, along with two U.S. Senators and two other Commissioners, helped form the Joint Task Force on Media and Childhood Obesity earlier this year. Thanks to the group's work, and other organizations, such as the Federal Trade Commission and Council of Better Business Bureaus, we have seen numerous companies step forward and pledge to change their marketing practices. With over 10 million obese or at-risk children, companies are finally stepping up and agreeing to increase ads for healthy foods and beverages, and ban the use of popular children's characters in ads for unhealthy foods. Our own locally-produced VeggieTales was one of the first to announce that its characters will no longer advertise for unhealthy foods. I appreciate the leadership that VeggieTales and Ion Media have shown. I believe these developments will truly make a difference in the lives of our children.

I continue to meet with media industry executives to discuss the disturbing rise in violence in today's entertainment media, and look for ways to help parents protect their children, such as enforcement of rules requiring V-chips in every new television set. Did you know that one-third of children under 3 have television sets in their bedrooms? And that by the time a child enters 1st grade they've watched nearly *5,000 hours of tv*? Many of us just don't realize all the negative impacts sitting in front of a screen can have. From the

effects that a sedentary, inactive lifestyle have on physical health, to the effects that violent and mature content have on mental and emotional development. We need to encourage our children to get up and get active.

Internet safety is a growing concern as children are spending more and more time online. Three weeks ago, I was invited to keynote a Congressional forum on Capitol Hill where organizations like the National Center for Missing and Exploited Children, iKeepSafe.org, Web Wise Kids, and the International Society for Technology and Education, presented the latest developments in technology to protect children against online predators. A parent's job has never been harder than it is today, and I hope that the FCC can help parents ensure a safe online environment, where children can access all the opportunities the Internet has to offer.

III. FCC- INTERNATIONAL ROLE

Many people ask what I was most surprised about as a new Commissioner at the FCC. When I first arrived at the FCC, I assumed my job would be similar to that here at the TRA. What I was most surprised to learn was the role the FCC plays in international relations. In just the short time I've been at the Commission, I've traveled to Beijing, China; 3 states in Brazil; Paris, France; and next week I'll make my second trip to the Global Forum on convergence in Venice and then to the World Radio Conference in Geneva. That doesn't include the international visitors who visit the FCC almost weekly, looking for expertise—I've met with 12 African ministers, the new Chairman for Lebanon,

Ministers from Sweden, Japan, Azerbaijan, and, last week, Greece! International issues under the jurisdiction of the FCC include TV and radio signal interference across borders and the allocation of satellite slots among countries and many broadband, internet issues. What I discovered was that, as different as our countries are, we share many of the same challenges as regulators around the world: updating telecom laws, the DTV transition, competing in a global environment, spectrum licensing, improving rural citizens' access to technologies, and keeping our young brainpower at home.

IV. FCC DOMESTIC

On the domestic side, we are constantly being challenged to adapt to unprecedented and sweeping technological innovations, while balancing legal and public interest standards. These disruptive technologies impact not only the marketplace, but also corporate business models and existing regulatory schemes. For example, the DTV transition not only affects the fidelity and quality of the video you, as consumers, experience, but also the complex auction rules based on Nobel-prize winning economic theory, which we employ to allocate spectrum to maximize efficiencies of this scarce natural resource, while hopefully maximizing the financial contribution to the US Treasury!

V. PIRACY

Everyone here is well-aware of the technological advances impacting the music and video industry. As the mother of three college-age children, I am constantly bombarded with the latest devices, or programs, or social networking sites on the market.

In the midst of the incredible consumer benefits of the digital age, many of you know all too well that piracy is a very real and present danger. Because I'm from Music City, and have witnessed first-hand the toll this is taking on my personal friends, the music industry, and all those associated jobs and service industries, I am declaring a "War on Piracy."

The numbers are *simply staggering*. According to a 2006 report by the IFPI (International Federation of the Phonographic Industry), over one-third of all CDs purchased in 2005 were pirated. Pirated CD sales outnumbered legitimate sales in *30 worldwide markets*. As for illegally downloaded *songs*, two-thirds of the 20 billion illegal downloads worldwide each year are of U.S. recorded music. That's billions of thefts from U.S. artists, songwriters, publicists, and secondary markets that are being "robbed." In Tennessee alone, we've suffered *\$203 million* in lost earnings due to piracy. And that's just piracy of sound recordings! Sound recording piracy has cost the U.S. economy over 70,000 jobs.¹ And it doesn't just affect recording artists. Today the impact of piracy is filtering down through other industries as well-- from travel to food to, yes, even tax

¹ Institute for Policy Innovation, Policy Report 188, August 2007.

receipts for the state budget! The study I referenced found that sound piracy costs U.S. workers \$2.7 billion in earnings annually-- \$1.6 billion of that would have been earned by workers in *other industries*. While here in Tennessee we are so familiar with the impact on the music industry, the problem of piracy impacts other segments of our economy as well. Recently the U.S. Chamber of Commerce reported the following losses due to counterfeiting and piracy:

- Apparel and footwear- \$12 billion
- Artistic Recordings- \$4.6 billion
- Motion Pictures- \$6.1 billion
- Software- \$34 billion
- Auto- \$12 billion
- Pharmaceuticals- \$32 billion

From designer retail goods to pharmaceuticals to entertainment electronics, the problem is now a national economic issue. The U.S. Chamber of Commerce reports that counterfeiting and piracy cost the U.S. economy between **\$200-\$250 billion per year**.

Here in Nashville the effects have been particularly tangible. So far this year, country album sales are down 26% and gospel is down 23%. This means fewer artists signed to labels; songwriters struggling to make ends meet; and industry executives cutting back on new investment. Where investment declines, creativity suffers; society suffers, and indeed, we all suffer.

VI. PIRACY ABROAD

Piracy is not just occurring on American soil. As I mentioned, I recently traveled to Brazil, where *1.3 billion* music tracks are illegally downloaded each year. *Half* of all discs

and CDs sold in Brazil each year are counterfeit. How does this affect you? In 2003, piracy in Brazil cost U.S. companies \$700 million in sales, according to the International Intellectual Property Alliance.

When I was in Beijing, I was walking through one of their outdoor markets, and was almost sick at the sight of hundreds, maybe thousands, of counterfeit American movies and CDs; clearly an accepted part of the marketplace. So, while toasting Brazilian ministers and giving them GooGoos and legal country music CDs—thank you Joe Gallante and Randy Goodman and CMT—I asked if they realized there were *1.3 billion* illegal downloads in their country each year, and I asked for their help as government officials and as moral leaders. I am happy to report that the American Chamber in Sao Paulo, where I spoke, already hosted a forum on the topic and hopefully those numbers will start decreasing.

VII. PIRACY AT UNIVERSITIES

It may be dangerous to suggest, given my current surroundings, but in addition to foreign soil, university campuses are another hotbed of piracy in this country. College students have all the right characteristics – heavy consumers of entertainment, operating on low budgets and trying to save money, and savvy users of downloading software. Plus, those that have computers in their rooms have the ability to download content 24 hours a day. Yes, even while they are in class or asleep! As colleges continue to upgrade their networks and increase capacity, I wonder how much of that is being used for illegal

downloads and pirated content. This also results in a financial drain on university resources. Universities' IT investment should be for health, research, medical records, and academic study—not pirating movies. I am pleased and want to thank Vanderbilt University for being one of the very first to employ a legal downloading program. We just need to get the other 6,300 colleges and universities in America to follow!²

Another method to assist in what I call the “War on Piracy” is effective media literacy education in schools. The I-Generation, who grew up with the Internet and the concept of “free” material online, must be taught that not all content found online is available legally. I am hoping the FCC, through our E-Rate program, will not only require filtering tools to prevent illegal downloads, but will also teach kids why downloading harms the community. Colleges and universities also need to do more. There are so many opportunities to educate these students- whether it's broadcasting information in the student center and cafeteria, advertisements before popular movies, or announcements on the computer the first time students log on. This is no longer a “craze,” it is punishable criminal behavior.

VIII. PIRACY TATE COMPUTER

I often tell the story of my own experience with piracy when I worked here at Vanderbilt University. Some of you may remember that I was involved in a project of GS-mapping using a high-capacity storage drive that could accommodate massive files of

² Digest of Education Statistics, 2006.

census-related data. One day I had a call from the Vanderbilt University IT folks, and after a brief investigation, it was discovered that my computer had been “hijacked” and was being used to store full-length motion pictures which were being accessed by users worldwide. You can imagine my surprise. I tell this story to say this—if it can happen to me, an employee of a university with high-level security, it can happen to anyone.

Overcoming this massive industry plague requires innovative solutions. I was pleased to see the recent announcement of an anti-piracy coalition, made up of media giants such as CBS, Disney, Fox, Microsoft, and NBC Universal. The industry coalition will focus on technological developments that would prevent public use of copyright-protected content. They have already released a set of guidelines that will require websites to use filtering technology to block the posting of unauthorized clips. As Jeff Zucker, President and CEO of NBC Universal said, “[This] announcement marks a significant step in transforming the internet from a Wild West to a popular medium that respects the rule of law.”

Google, owner of YouTube, the largest video-sharing website, has not committed to joining the Coalition. They have, however, committed to employing a filtering system that gives owners of copyrighted videos the choice of promoting or blocking their content. I was out at the Google complex in California two weeks ago, and met with Larry Page, Google attorneys, and some of the brightest software engineers in the world. For example, they are employing a watermarking technology that will essentially “tag” copyrighted

material, making it easy to identify by IP investigators. These developments give me hope that there is a solution to this problem. I encouraged, begged, and cajoled those I met with to be part of the solution and help us protect the art and the artists, the song and the story, for generations to come.

I am also encouraged by the emergence of entirely new businesses dedicated to fighting piracy. SafeNet, one of the entertainment industry's primary piracy investigators, was founded by two National Security Agency engineers in a basement in Timonium, Maryland, and is responsible for the recent, highly-publicized indictment of a Minnesota woman who illegally downloaded music from the Internet on her home computer. To give you an idea of the scope of their business, SafeNet has 1,100 employees and brings in *\$300 million* in annual revenue.

The U.S. Department of Justice is joining the fight as well. Earlier this year, they logged their 50th conviction for online piracy. The most recent conviction came as part of Operation FastLink, an ongoing DOJ crackdown against the organized piracy groups responsible for most of the initial illegal distribution of copyright movies, software, games, and music on the Internet. Operation FastLink has resulted in more than 120 search warrants executed in 12 countries; the confiscation of hundreds of computers and illegal online distribution hubs; and the removal of more than \$50 million dollars worth of software, games, movies and music from illegal distribution channels. Not only is this

diverting funds from creators and artists, but in many cases is diverting funds to illegal organized crime syndicates.

And right here at Vanderbilt, just two weeks ago, the Law School, in conjunction with the World Intellectual Property Organization and the International Confederation of Societies of Authors and Composers co-sponsored a major conference to discuss changes to copyright laws, collective rights management practices and business models capable of meeting the needs of today's copyrights owners. The conference was organized in collaboration with several music rights organizations. I am proud of the Law School's keen interest in issues particular to the Nashville community.

I am committed to taking action. I believe that we must start looking at piracy as a crime of theft that is threatening not only the future of the music industry, but the other industries mentioned earlier. Consider what has been accomplished in Ireland, where they have begun cracking down on this crime. Since 2000, the rate of piracy has dropped 30%. Just a few weeks ago, the Irish Recorded Music Association claimed a huge victory when authorities sentenced a man to prison for selling over 200 illegally copied CDs and DVDs. The Director of the Association, discussing piracy's impact on musicians, said, "It is stealing from people who make a livelihood from music so we will do everything in our power to seek out and prosecute anyone involved in any form of unlawful music practice." The Association made a commitment earlier this year that they will not tolerate any form of music piracy.

IX. CONCLUSION

I consider myself an Ambassador for Nashville, Music City, and for this industry that is the very fabric of our great city. And of course, I can't limit my ambassadorship to one genre. When you think about it- most of the world's popular music was born here in Tennessee or very nearby— from the bluegrass of the Appalachians, to the blues of Memphis, to the gospel music I grew up hearing, to Elvis and rock & roll—what a rich and valuable resource is woven all around us. Similar to monetized natural resources that we protect and value—coal, oil, water—music, songs, stories and now videos warm us, heal us, quench our thirst and light our way. So my message from Washington to Warsaw is that we must protect and save these treasures, these great natural resources, as they are our art, our history, our music; *our* silver and gold.

This city, the “Athens of the South,” is truly a cultural epicenter. It is home to over 80 record labels and 180 recording studios. It is home to the new President of the Country Music Association, Randy Goodman, and it is the birthplace of the world-famous Grand Ole Opry. I've been told that half of the population of the United States lives within 650 miles of Nashville. Clearly it's the lucky half. I am proud to be a Nashvillian, a city that continues to give the world so many great musicians, entertainers, artists, and entrepreneurs. I hope that I will always represent you well. Thank you.