



MOTION PICTURE ASSOCIATION - AMERICA

Testimony in Support of Senate Bill 1529

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Good morning, Chairman Hass, Vice-Chair Findley and members of the Committee, my name is Melissa Patack. I am Vice President and Sr. Counsel for State Government Affairs for the Motion Picture Association – America (MPA)¹. I am here on behalf of MPA and our member companies who are the owners of most of the major television broadcast networks and most of the national cable program networks currently operating in the U.S.

We are in support of Senate Bill 1529, to provide for appropriate apportionment for the network and cable program broadcasters. Since 2014, the income of national broadcast companies and national cable program companies has been apportioned in accordance with the customer location, or commercial domicile, method. Broadcasters earn their income from advertising revenue, license fees and direct customer subscriptions. In accordance with customer location apportionment, broadcasters pay tax on their income earned from companies based in Oregon that advertise on their networks, and on license fees earned from Oregon-based licensees. Examples of Oregon-based companies that advertise on these networks include, Nike, Columbia Sportswear and Adidas. Their customers also include the cable and satellite operators and local TV stations that license the programming produced by the networks. The customer location apportionment

¹ The Motion Picture Association includes: The Walt Disney Studios Motion Pictures; Netflix Studios, LLC; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Universal City Studios LLC; and Warner Bros. Entertainment Inc. The parent companies of MPA-A's members are the owners of most of the major broadcasters, which include television networks and national cable program companies. Sony Pictures and Netflix do not own television or cable networks.

method is market sourcing for broadcasters; it taxes broadcasters on the income earned from their direct customers.

The customer location apportionment method has a January 1, 2020 sunset date and Oregon's law will revert to a law that dates to the 1980's, taxing broadcasters based on audience, if this bill is not enacted.

As a compromise, this bill continues the customer location method of apportionment for broadcasters, and provides for a "floor" or minimum, determined as follows:

- (a) A broadcaster will determine the amount of income tax in accordance with the customer location apportionment method. A broadcaster's gross receipts from advertising are in Oregon only if the advertiser is domiciled in Oregon. A broadcaster's gross license fees are in Oregon only if the licensee is domiciled in Oregon. And a broadcaster's receipts from direct customers or subscribers are included, if a customer is located in Oregon, as determined by the billing address (or information in the company's books and records).
- (b) In order to determine a "floor", the broadcaster will multiply .4% by the total amount of domestic gross receipts of the broadcaster from advertising and licensing. Receipts from direct customers or subscribers would also be added.

If the amount in (a) is less than the amount in (b), the broadcaster will use the amount in (b) in determining the domestic advertising and licensing revenues that are included in the numerator of the sales factor.

As part of this compromise, the bill includes a provision allowing a platform broadcasting company to elect audience as the apportionment method. A platform broadcasting company includes a cable service provider, a direct broadcast satellite service, or a multichannel video programming distributor. The election would be effective for five years. In providing for this election, for broadcasters commonly owned with a cable service provider, direct broadcast satellite service provider, or multichannel video programming service provider, the bill addresses the changes that have occurred in the broadcast industry – from business mergers to the development of new streaming services. The bill retains audience, as the

apportionment method, for those companies with various business units that are commonly owned to streamline the determination of their tax liability in Oregon.

MPA estimates that under this formula, including with the election for audience, the annual amount of tax paid by its affiliated broadcast entities will increase to more than \$8.9 million, a substantial increase over the amount of tax paid under commercial domicile method, in effect since 2014.

The draft bill modernizes the definition of broadcaster and provides a definition for platform broadcasting company, which reflects business operations and is intended to address controversies that have arisen under the existing law.

We believe this legislation will provide consistency and clarity, both for the taxpayer and the state and we urge your support for S.B. 1529.

I am happy to answer any questions.

