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September 7, 2007

Andrew Oosterbaan
Chief
Child Exploitation and Obscenity Section
Criminal Division
U.S. Department of Justice
Washington, DC 20530

Re: Docket No. CRM 104

Dear Mr. Oosterbaan:

These comments with respect to the proposed amended regulations under 18 U.S.C. § 2257 published at 72 Fed. Reg. 38033 (July 12, 2007) ("Proposed Revised Regulations") are submitted on behalf of Media Coalition, Inc., a trade association dedicated to the protection of First Amendment rights of its members (trade associations representing the book, magazine, recording, and computer and video game publishers, booksellers, librarians, movie, recording, video game manufacturers, and recording, video and interactive entertainment software retailers and movie exhibitors in the United States).

1. A proposed change in the mandatory statement is unduly and unnecessarily burdensome. Section 2257(e) requires a statement be affixed to every copy of material subject to § 2257, stating where the requisite records are located and who is responsible for maintaining the records. The present regulations require, in addition, that the statement contain the "date of production, manufacture, publication, duplication, reproduction, or reissuance of the matter." § 75.6(b)(2). The recent amendments to § 2257 by the Adam Walsh Child Protection and Safety Act of 2006 (the "Adam Walsh Amendments") made no change to § 2257(e) with respect to stating a date. Despite the fact that there was no change in the statute which required this change in the regulations, the proposed revised regulations substantially increased the burden on persons subject to § 2257, with no matching benefit to anyone. Proposed § 75.6(b)(2) provides that the statement must contain the "date of original production of the matter." That phrase is defined in § 75.1(m) as the date the primary producer actually filmed, videotaped, or photographed, or created a digitally or computer-manipulated image, digital image, or picture, of the visual depiction of an actual human being engaged in actual sexually explicit conduct. Under the present regulations, in the case of a

magazine or video a single date -- the date of publication -- suffices. Under the proposed revised regulations there is likely to be a lengthy list of dates, since in most cases there are many depictions photographed, filmed or videotaped on many different dates. This information would be burdensome to compile and would require a significant number of column inches in a magazine¹ and amount of screen time on a video to convey, without providing any concomitant benefit. This gratuitous, unnecessary burden on First Amendment-protected material should be eliminated and § 75.6(b)(2) should remain as it is today.

2. One of the Adam Walsh Amendments was to require that the mandatory statement be affixed to "every page of a website on which matter described in subsection (a) appears." § 2257(e)(1). The statute does not define what is considered to be a web page; nor do the proposed revised regulations. There is no generally accepted meaning for that term. Enclosed herewith is the results page when one seeks the definition of web page on the Internet through Google. Twenty-seven different definitions appear. They are significantly different, one from the other, including "the screen that appears on your computer," an HTML document on the Internet, and that which is covered by a single URL. Such vagueness is constitutionally unacceptable in criminal laws related to First Amendment-protected material. A definition must be added to the regulations.

3. The Adam Walsh Amendments included a new § 2257A. The new section has two major components: a) applying 2257-like requirements to simulated sexually explicit conduct; and b) creating a "safe harbor" for certain producers of mainstream materials, so that the requirements of § 2257 will not apply to such producers with respect to material containing depictions of lascivious exhibition of the genitals, and the requirements of § 2257A will not apply to such producers with respect to material containing depictions of simulated sexually explicit conduct. § 2257A(h)(1). However the provisions of § 2257A are not effective until 90 days after its final regulations are published in the Federal Register, and no regulations have even been proposed under § 2257A. Thus, while the intent of Congress was to provide this "safe harbor" for producers of mainstream materials, it is presently unavailable and likely will be for many months, although the extension of § 2257 to depictions of lascivious exhibition of the genitals is in effect.

Members of Media Coalition represent such mainstream producers. We urge that, in order to effectuate the Congressional intent in passing § 2257A, the Department of Justice publicly state, either in supplementary information issued when the proposed revised regulations are finalized, or in supplementary information issued when the proposed 2257A regulations are issued, or in some other manner, that it is the policy of

¹ The regulations require the statement to be no less 12-point type or no smaller than the second largest typeface on the material. § 75.6(e).

Mr. Andrew Oosterbaan

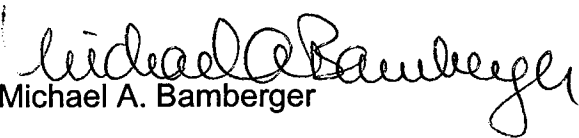
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the DOJ not to prosecute the types of mainstream producers described by § 2257A(h)(1) with respect to the types of materials covered by the "safe harbor" during the "gap" period prior to the effectiveness of § 2257A.

If you have any questions with respect to these comments, please do not hesitate to contact the undersigned.

Very truly yours,


Michael A. Bamberger

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Definitions of Web Page on the Web:

- An HTML document that is accessible on the Web.
www.paweb.net/webglossary.htm
- A document or file, written in HTML, that is stored on a web server and can be viewed over the Internet using a web browser.
www.liv.ac.uk/webteam/glossary/
- A single document or file on the World Wide Web, identified by a unique URL.
faculty.valencia.cc.fl.us/jdelisle/lis2004/glossary.htm
- The traditional presentation of information online. Websites are made up of webpages, analogous to the pages in a book. If frames are used, multiple pages can be displayed at the same time, resulting in multiple Page Views.
www.pokeradnetwork.com/poker_advertising_glossary.html
- An HTML document on the Web, usually one of many together that make up a Web site.
www.expedite-email-marketing.com/internet_marketing_glossary_internetmarketingtermsdefinition.htm
- A Web page is a document on the Web. Every Web page is identified by a unique URL (Uniform Resource Locator).
www.public.asu.edu/~iddwb/writeups/glossary.html
- A document designed for viewing in a web browser. Typically written in HTML.
domainsmagazine.com/managearticle.asp
- Any document that can be accessed by a uniform resource locator (URL) on the World Wide Web. A server that is connected to the Internet and is dedicated to serving Web pages.
www.learningservices.gcal.ac.uk/it/staff/definitions.html
- A computer document available over the World Wide Web. A Web page is a given file stored on a Web server, and written in HTML. It is transferred from the server to the client using HTTP.
teladesign.com/ma-thesis/glossary.html
- is the basic unit of the Web. The "page" is an electronic document that integrates text (and sometimes images) into a single interface. Web pages are linked together by means of hyperlinks. Web pages are often collected under one broad address or site.
www.lib.ku.edu/research/terms.shtml
- Any computer file, document, or grouping of electronic text which can be addressed by a hypertext link and

rendered for a user on his/her computer monitor. This includes any grouping of electronic text, graphical material, or data generated by a software application and displayed through the use of a Web browser.
www.osec.doc.gov/webresources/Definitions.html

- an HTML file or document; part of a web site.
www.worldwidelearn.com/elearning-essentials/elearning-glossary.htm
- A web page, is a document that contains text and graphical information that can be accessed through the internet through a web browser. Usually, web pages are stored as HTML documents on a web server. Alternatively, web pages may be generated dynamically as they are accessed through the use of scripting language such as Active Server Pages (ASP). Web Server A web server is a computer that provides HTTP services to HTTP clients. ...
www.domain-name-center.com/domain-name-glossary.htm
- A Web page is a single electronic document that is formatted in HTML, a software language. The person who created the document has the ability to put photographs, text and images into the document. In addition, links to other Web pages can be added to the page. A Web page is similar to a single document placed in a file folder in a filing cabinet.
www.adult-design-website.com/web_dictionary.htm
- A web page is a document created with HTML (HyperText Markup Language) that is part of a group of hypertext documents or resources available on the World Wide Web. Collectively, these documents and resources form what is known as a web site.
webweevers.com/glossary3.htm
- A web page is a document containing text, graphics, sound, or a collection of all the above and more. These documents are written in a language called HTML, and appear in your browser when you enter a specific URL
cins.colstate.edu/glossary.htm
- A single page of hypertext data, as presented on a computer screen by a "browser" program.
web-savvy.com/river/Schuylkill/glossary.html
- A single document, with text and/or images, viewed with a browser.
highered.mcgraw-hill.com/sites/0072407611/student_view0/glossary.html
- A document containing text and graphics that can be accessed through a web browser on the internet.
www.100best-domain-names.com/articles33.html
- A hypermedia document as viewed through a World Wide Web browser
www.martech-intl.com/best2/glossary.htm
- In the World Wide Web (WWW) each page is a separate computer file (made up with special codes using hypertext markup language or "HTML"), which can be accessed via a browser, one page at a time.
www.treelink.com/glossary.htm
- Web pages are what make up the World Wide Web. These documents are written in HTML (hypertext markup language) and are translated by your Web browser. Web pages can either be static or dynamic. Static pages show the same content each time they are viewed. Dynamic pages have content that can change each time they are accessed. Some pages are typically written in scripting languages such as PHP, Perl, ASP, or JSP. ...
www.canadawebcenter.com/glossary.htm

- The screen that appears on your computer when you go to a Web site on the Internet.
www.dsl-experts.com/broadband_glossary_w.htm
- A Web page is one "instance" of Web content. This single page you are viewing is "a Web page."
www.uhh.hawaii.edu/uhh/workshop/InternetTerminology.php
- A Web Page is any one particular page that is located on the World Wide Web. Web pages comprise a web site, and are distinct from other pages by their URL, ie <http://www.vitalnet.com/index.html>. See Also: **WEB SITE**
www.vitalnet.net/h/support_glossary.html
- a document connected to the World Wide Web and viewable by anyone connected to the internet who has a web browser
wordnet.princeton.edu/perl/webwn
- A Web page or webpage is a "page" of the World Wide Web, usually in HTML/XHTML format (the file extensions are typically htm or html) and with hypertext links to enable navigation from one page or section to another. Web pages often use associated graphics files to provide illustration, and these too can be clickable links. ...
en.wikipedia.org/wiki/Web_page

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