



**WARNER BROS.**

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To: Senator Andrew McDonald, Co-Chair, Representative Michael Lawlor,  
Co-Chair, and Members of the Joint Committee on Judiciary

From: Warner Bros. Entertainment Inc.

Subject: Written Testimony In Opposition to Proposed House Bill 6818

Warner Bros. Entertainment Inc. ("Warner") is a leading producer and distributor of filmed entertainment throughout the world. Over the past several years, Warner's motion pictures have dominated both the domestic and international box office, including such hits as *Superman Returns*, *Batman Begins*, *Charlie and the Chocolate Factory* and *Harry Potter and the Goblet of Fire*. In 2006, Warner's *The Departed* received the Academy Award for Best Picture of the Year, and Warner's *Happy Feet* received the Academy Award for Best Animated Feature. Both of these films were also among the highest-grossing films of the year.

As an entertainment industry leader in creating, producing, distributing, licensing and marketing not only critically acclaimed but financially successful feature films, television programs, home video, animation, and other forms of entertainment, Warner relies strongly on the freedom of artistic expression enshrined in the First Amendment. Accordingly, Warner views with great concern the language in Connecticut House Bill 6818 which severely restricts story-telling in audio-visual works and unconstitutionally expands the right of publicity by allowing individuals and their heirs essentially to control whether and how they are depicted in filmed entertainment.

An overwhelming number of motion pictures and television programs based on or inspired by historical events or characters would be jeopardized by the proposed legislation. The errors and omissions carriers which provide insurance coverage to companies such as Warner would refuse to insure such works unless the individuals depicted therein had essentially "pre-approved" their portrayal. Writers and directors would no longer be able to exercise their rights to free expression in a meaningful way if their creative visions were held hostage to the biases and whims of the individuals they were seeking to portray. The economic and creative impact of the proposed legislation not only on companies like Warner but on the states where they spend tens of millions of dollars a year could indeed be severe and far-reaching. For example, in 2005 alone, Warner paid over \$12 million to more than 150 Connecticut-based vendors for a variety of goods and services in connection with the studio's film production and distribution. Warner is currently scouting the Fairfield and Litchfield areas to film the motion picture *Christmas in Connecticut* in the fall of this year. This production is a remake of the classic 1945 film of the same name starring Barbara Stanwyck and Dennis Morgan. The film is slated to star Jennifer Garner, the popular star of films such as *13 Going on 30* and *Daredevil*, as well as the television show *Alias*. Other Warner productions for which Connecticut has been identified as a likely location are *The Yes Men* and *The Great Mordecai Moustache Mystery*. Productions like these, and hundreds of others produced by Warner and the other motion picture companies in states throughout the country, could be jeopardized by legislation such as Connecticut House Bill 6818 which so seriously impinges on the artistic freedom necessary to sustain a thriving filmed entertainment industry.

In 2006 Connecticut enacted a very competitive production tax incentive, which gives your state a clear advantage over many other states in attracting motion picture and television production. With that advantage will come jobs that provide good wages and benefits, productions using local vendors, and an opportunity to showcase the state to the rest of the world. The passage of AB 6818 runs directly counter to the welcome mat that the State has provided with the production tax incentive, and may force our industry to seek alternative locations for Connecticut.

As a company that has worked closely for decades with major film stars, Warner is certainly mindful of their concerns about the exploitation of their fame, and about unlawful violations of their publicity rights. While the proposed legislation may be a well-intentioned effort to protect famous

actors, however, it represents, in fact, an alarming encroachment on free speech that, among other things, will discourage production of the very films that make actors famous in the first place. The purpose of the First Amendment, and of the free speech values it fosters, is to protect speech that may be unpopular or troubling to individuals but which constitutes commentary, parody, satire and other types of creative expression on topics and people of public interest. It matters not whether the speech is printed or uttered by actors in motion pictures – the right to freedom of expression extends across all media. To the larger goal of preserving and promoting a culture as rich and as diverse as ours – surely one of the defining qualities of our society – some sacrifice of individual comfort must be made. These values are enshrined in our legal system, and gravely threatened by the proposed legislation.

Warner fully endorses the Memorandum in Opposition to Proposed Connecticut Raised House Bill 6818 submitted by the Motion Picture Association, as well as the Written Testimony submitted by the other motion picture companies and by Professor J. Thomas McCarthy. As explained more fully in these statements, the proposed legislation unconstitutionally vests individuals with the power to determine whether and how they are portrayed on screen, and is thus a serious threat to freedom of expression.