

Testimony of

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Playwright

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Prepared Testimony

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The Playwrights Licensing Antitrust Initiative Act:  
Safeguarding the Future of American Live Theater  
Senate Committee on the Judiciary  
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Mr. Chairman. Members of the Committee. It is indeed an honor to appear before you today in support of S. 2349, The Playwrights Licensing Antitrust Initiative Act of 2004.

In preparing for this testimony today, I am reminded of Muriel Humphrey's admonishment to her husband: "Hubert, a speech does not need to be eternal to be immortal." I will take that advice to heart as I testify today.

It has been some time since I was last asked to testify before Congress. But, I have to tell you, today I am actually happy to appear on behalf of what I believe is truly an important topic worthy of Congressional debate and action - the future of the American theater.

I have been blessed to be lucky enough to be a successful playwright. Many of my plays, I am proud to say, have won critical acclaim - Death of a Salesman and The Crucible won a Pulitzer and a Tony award respectively.

I raise these plays, and my success, not to brag, but to emphasize an important point: I and my colleagues before you today are here not for ourselves, but for others. We are speaking on behalf of the up and coming playwrights: The Arthur Millers, the Stephen Sondheims and the Wendy Wassersteins as young playwrights. Indeed, the American theater risks losing the next generation of playwrights to other media and opportunities as the pressures on playwrights increase and their power to protect their economic and artistic interests diminish. The legislation we are advocating isn't for us, it's for them. And it's for the theater-going public.

The legislation introduced by you, Chairman Hatch and Senator Kennedy, is meant to keep the legacy of aspiring playwrights who write for the theater alive. It will help ensure that American playwrights, through the theater, can speak to the hearts and minds of the audience. That we can challenge social mores, ideology, beliefs, or simply entertain. Drama is one of civilization's greatest art forms and we must do all that we can to promote its vitality.

The American theater has undergone enormous changes over the years. From its entrepreneurial start it has become increasingly dominated by corporate interests. Sure, business is changing in virtually every sector of our economy and there is no reason that the theater should be immune from business pressures.

But, unfortunately, in the midst of these increasing pressures, only one entity does not have a seat at the bargaining table: the playwrights. The status of the playwright is difficult to discern as it has fallen under the long shadow of questionable and conflicting legal opinions. The result is that all other entities have the collective power and ability to fight for their rights. As a result, it is the playwright who gets squeezed.

The Playwrights Licensing Antitrust Initiative Act of 2004 would provide a very limited legislative fix that would allow for the standard form contract that was last negotiated in 1982 to be updated to take account of today's market

realities and intellectual property protection climate. It does not force producers to hire any playwrights, but it does allow playwrights with a willing producer to protect their economic and artistic interests.

Today many new playwrights are presented with take-it-or-leave-it contracts. In their hunger to get their plays produced, many have no choice. Others, facing the economic pressures that face all-too-many people in today's economy, are abandoning their dreams of writing for the theater as they go to Hollywood or write for other media.

Some may say that this is just basic economics. But, the legislation the Chairman and Senator Kennedy have introduced is not intended to change the laws of economics. It simply says that playwrights should have a seat at the table. Failure to pass the legislation will continue the unfair bargaining situation that the playwrights find themselves in and not only will the playwright and the theater suffer, but society as a whole.

It was Senator Kennedy's brother, President Kennedy, who once said:

"I look forward to an America which will reward achievement in the arts as we reward achievement in business or statecraft."

Unfortunately, under today's legal shadows, the up and coming playwrights must offer their wares at a discount.

I understand that antitrust exemptions are not easy to come by. And I believe that amending our laws should not be done at the drop of a hat.

But, where there the national interest demands that change occur, I believe it is appropriate.

Mr. Chairman. Members of the Committee. I urge your prompt approval of this legislation.