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Media Coalition Applauds Reintroduction of Federal Shield Law

WASHINGTON – A working alliance of more than 40 media companies and journalistic organizations applauds reintroduction of the “Free Flow of Information Act” that would set a federal standard for protecting confidential sources and journalists. The bipartisan legislation has been put forward by U.S. Representatives Rick Boucher (D-VA), John Conyers (D-MI), Mike Pence (R-IN), Howard Coble (R-NC), Greg Walden (R-OR) and John Yarmuth (D-KY) in the House. Senators Richard Lugar (R-IN), Christopher Dodd (D-CT), Lindsey Graham (R-SC), Mary Landrieu (D-LA), and Pete Domenici (R-NM) will introduce an identical bill in the Senate.

Members of the coalition issued the following statements of support:

“We applaud reintroduction of the Free Flow of Information Act in the House by four members of the House Judiciary Committee, including Chairman Conyers. We believe this early support will bode well for movement of a federal shield bill in this Congress. And, we once again commend Representatives Rick Boucher and Mike Pence and Senators Lugar and Dodd for their leadership on this issue.

“The free flow of information to reporters is crucial in order to bring matters of great public importance to light. Compelling reporters to testify, and, in particular, to reveal the identity of a confidential source, will restrict the flow of information to reporters and ultimately to the public on matters of public interest, such as waste, fraud and abuse in government and in the private sector. By passing the Free Flow of Information Act, Congress will establish important and balanced ground rules for compelled disclosure of sources and information from reporters.”

Currently, 32 states and the District of Columbia have “shield” laws in force in state courts and 17 other states have recognized a reporter’s privilege as a result of judicial decisions. However, in federal courts there is no uniform set of standards to govern when testimony can be sought from reporters. The legislation will:

- Provide journalists with a qualified privilege as to sources and information. The bill would require journalists to testify at the request of criminal prosecutors, criminal defendants and civil litigants who have shown by a preponderance of the evidence that they have met the various tests for compelled disclosure. The compelling party must also satisfy a public interest balancing test. Under this test, a court must find “the non-disclosure of the information would be contrary to the public interest, after taking into account the public interest in compelling disclosure and the public interest in gathering news and maintaining the free flow of information.”
- Establish that a confidential source’s identity can be compelled if disclosure is necessary to prevent “imminent and actual harm” to national security, to prevent “imminent death or significant bodily harm,” or to identify a person who has disclosed significant trade secrets or certain financial or medical information in violation of current law.
- Protect information that may reveal journalists’ confidential sources when that information is held by telephone companies, Internet service providers and other communications providers.

- Define the scope of persons covered by these standards.

This coalition of media companies and organizations urges Congress to act swiftly in passing the Free Flow of Information Act.

A list of supporting media companies and organizations is included on the following page. [See also what coalition members are saying about the shield law.]

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Organizations / Companies Supporting

“Free Flow of Information Act of 2007”

ABC Inc.
Advance Publications, Inc.
American Business Media
American Society of Newspaper Editors
Associated Press
Association of Alternative Newsweeklies
Association of American Publishers
Association of Capitol Reporters and Editors
Belo Corp.
CBS
CNN
Coalition of Journalists for Open Government
The Copley Press, Inc.
Court TV
Cox Television
Cox Newspapers
Cox Enterprises, Inc
Freedom Communications, Inc.
Gannett Co., Inc.
Hearst Corporation
Magazine Publishers of America
The McClatchy Company
The McGraw-Hill Companies
Media Law Resource Center
National Association of Broadcasters
National Newspaper Association
National Press Club
National Press Photographers Association
National Public Radio
NBC Universal
News Corporation
Newspaper Association of America
The Newspaper Guild-CWA
Newsweek
The New York Times Company
Online News Association
Radio-Television News Directors Association
Raycom Media, Inc.,
The Reporters Committee for Freedom of the Press
E. W. Scripps
Society of Professional Journalists
Time Inc.
Time Warner
Tribune Company
The Washington Post
White House Correspondents' Association

**ADDITIONAL STATEMENTS OF SUPPORT
FOR THE “FREE FLOW OF INFORMATION ACT”**

Gilbert Bailon, president, American Society of Newspaper Editors; publisher and editor, *Al Día* (Dallas, TX):

“The First Amendment guarantee of a free press is threatened by recent trends in the courts. We support this legislation's balanced approach to a federal shield law because it clarifies the role of all journalists and will allow us to better serve the public's right to know.”

Richard Karpel, executive director, Association of Alternative Newsweeklies:

“When the news is bad, it's only natural that public officials try to hide it. Consequently, confidential sources are often the only means to uncovering the truth. By protecting those sources, this bill helps the American public hold its government accountable.”

Nina Link, president and CEO of the Magazine Publishers of America:

“We commend Senators Dodd and Lugar, Chairman Conyers, and Representatives Boucher, Coble, Pence, Walden, and Yarmuth for their tireless efforts to promote government accountability through their sponsorship of the Free Flow of Information Act.

“This is not a Democratic or Republican issue. This bipartisan group of lawmakers has come together to help ensure that the American public will receive vital information essential to our democracy through the protection of confidential sources.”

Sandy Baron, executive director, Media Law Resource Center:

“The Media Law Resource Center commends the sponsors of the ‘Free Flow of Information Act’ for understanding that protecting the ability of journalists to gather information ultimately protects the public’s ability to receive that information – often on the actions of government and other powerful institutions in our communities and nation. The Free Flow of Information Act would bring some measure of harmony between the federal law and legal systems and those of the majority of states that currently limit compelled disclosure and testimony by journalists.”

David Rehr, president and CEO of the National Association of Broadcasters:

“NAB salutes Representatives Boucher, Conyers, Pence, Coble, Walden and Yarmuth and Senators Dodd and Lugar for their commitment to protecting journalists with Federal Shield legislation. Broadcast journalists have a rich history of keeping citizens informed with timely investigative reporting on issues of critical importance to the nation. NAB looks forward to working with Congress to ensure that reporters retain access to confidential sources without fear of prosecutorial reprisal.”

Jerry Zremski, president, The National Press Club, Washington, D.C.; Washington bureau chief, *The Buffalo News*:

"As we mark World Press Freedom Day, introduction of a federal shield law could not be more timely. Reporters around the globe are constantly jailed or threatened with jail for their work. That this should happen in the United States is deplorable, yet with disturbing frequency we're seeing reporters subpoenaed and imprisoned for refusing to reveal confidential sources. A federal shield law will go a long way toward protecting those who report the stories the public has a right and a need to know."

Jerry Tidwell, president, National Newspaper Association; publisher, *Hood County News* (Granbury, TX):

"Media of all sizes need to be concerned about being able to protect sources and shield themselves from fishing expeditions in litigation, which can be costly and disruptive. For small media, unnecessary subpoenas can bring a newsroom to a complete halt."

John F. Sturm, president and CEO, Newspaper Association of America:

"The legislation is a positive step toward preserving the free flow of information while still honoring the public interest in having reporters testify under certain circumstances. Too often the journalist is becoming the first stop – rather than the last resort – for civil litigants and prosecutors attempting to obtain the identity of confidential sources. The bill establishes important and balanced ground rules for compelled disclosure of sources and information from reporters."

Linda Foley, president, Newspaper Guild-CWA:

"Working journalists need to be able to provide protection of sources at all levels in order for our democratic system of government to function properly."

Barbara Cochran, president, Radio-Television News Directors Association:

"Broadcast investigative reporter Jim Taricani spent four months under house arrest rather than reveal the source of his report on corruption in the government of Providence, R.I. Without a federal shield law, reporters like Taricani may spend time in confinement when they should be in newsrooms. RTNDA applauds the sponsors of the Free Flow of Information Act for taking action to safeguard journalists' ability to obtain important information for the public from confidential sources."

Lucy Dalglish, executive director, Reporters Committee for Freedom of the Press:

"From Watergate to stories about warrantless eavesdropping on American citizens, reporters have relied on anonymous sources to report on important stories about government behavior and corporate wrongdoing. The Free Flow of Information Act will make it easier for reporters to protect the sources of such stories."

Christine Tatum, president, Society of Professional Journalists; assistant business, *The Denver Post* (Denver, CO):

"Some of the greatest investigative stories of our time – many of them pertaining to the actions of our federal government – have relied on the press' ability to promise sources confidentiality. SPJ commends legislators who support a federal shield law. They clearly understand that anonymous sources often help build a more informed public, which is better able to hold its elected leaders accountable."

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