AMENDMENT NO._____   Calendar No._____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.

S. 4632

To amend title 17, United States Code, to establish an alternative dispute resolution program for copyright small claims, to amend the Communications Act of 1934 to modify the scope of protection from civil liability for "good Samaritan" blocking and screening of offensive material, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. KENNEDY

Viz:

1   On page 63, line 19, strike "and".

2   On page 64, after line 7, insert the following:

3   (C) by adding at the end the following:

4   "(3) EXCEPTION.—

5   "(A) IN GENERAL.—Notwithstanding any

6   other provision of this subsection, and subject

7   to subparagraph (B) of this paragraph, the pro-

8   tection provided under paragraph (1)(A) or (2)

1   shall not apply with respect to a provider of an

2   interactive computer service that—

3   "(i) collects information regarding the

4   habits, preferences, or beliefs of a user of

5   the service; and

6   "(ii) uses an automated function to

7   deliver content to the user described in

8   clause (i) that corresponds with the habits,

9   preferences, or beliefs identified as a result

10   of the action taken under that clause with

11   respect to that user.

12   "(B) APPLICABILITY.—Subparagraph (A)

13   shall not apply to a situation in which—

14   "(i) a user of an interactive computer

15   service uses an automated function to de-

16   liver content to that user; or

17   "(ii) subject to subparagraph (C), a

18   user of an interactive computer service

19   knowingly and intentionally elects to re-

20   ceive the content described in subpara-

21   graph (A)(ii).

22   "(C) BURDEN OF PROOF.—A provider of

23   an interactive computer service shall have the

24   burden of proving by clear and convincing evi-

25   dence under subparagraph (B)(ii) that a user of

1   the interactive computer service knowingly and
2   intentionally elected to receive the content de-
3   scribed in subparagraph (A)(ii).''; and