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Richard M. Thomas Associate General Counsel Office of Government Ethics 1201 New York Avenue, NW Suite 500 Washington, DC 20005

Re: Discussion of Movie Screenings Within Proposed Amendments to 5 CFR Part 2635

Dear Mr. Thomas:

We are pleased to submit these comments regarding proposed amendments to 5 CFR Part 2635 ("Part 2635") governing standard of ethical conduct for executive branch employees of the Federal Government on behalf of the Motion Picture Association of America and its member companies (collectively "MPAA"). The MPAA specifically wishes to clarify the treatment of industry events held at the MPAA during which a movie is screened or viewed under the proposed amendments.

The MPAA is the voice and advocate of the American motion picture, home video and television industries, domestically and, through our subsidiaries and affiliates, internationally. They champion a healthy, thriving film and television industry by engaging in a variety of legislative, policy, education, technology, and law enforcement initiatives. These efforts range from safeguarding intellectual property rights, to using technology to expand consumer entertainment choices, to championing fair trade agreements and working to provide a secure future for artistic freedom of expression. Over two million American jobs depend on the film and television industry. Nearly \$180 billion is added to the U.S. economy annually and \$15 billion in federal and state taxes as a result of the film and television industry.

We respectfully submit our comments to provide information regarding these events and to clarify that MPAA's screenings, contrary to the characterization in the proposed amendments that they are "social events" are, in fact, an opportunity for the industry to exhibit its product and to educate attendees about the importance the industry plays in the economy.

The proposed amendments outline the rationale of the Office of Government Ethics ("OGE") in proposing to eliminate many widely used exceptions in section 2635.204 to accept a



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gift from a registered lobbyist or lobbying organization. Specifically, the proposed amendments would eliminate the exception for attendance at a widely attended gathering and attendance at social events. While the MPAA is not commenting on the proposal to exclude these exceptions, the discussion surrounding the exception for social invitations states that "[t]his exception has been used, for instance, to permit employees to attend such events as movie screenings and Washington cocktail parties." MPAA writes to clarify that screenings conducted by MPAA are not purely social events akin to sporting events or theatrical and musical events but rather serve as educational opportunities in the same way as attending a briefing on a specific subject or going to an auto show to view soon to be released and futuristic products of the auto industry. While some may find attendance at an auto or other trade show to see the latest products to be both informative and entertaining, some may find it only informative. For some, the substantive content of the movie may be relevant, while to others it might be the opportunity to see in action the latest movie making techniques or to put into context what they are learning regarding the challenges facing the industry. In either case, a screening at the MPAA is not for purely social, or for purely entertainment, purposes. Screenings at the MPAA have been structured such that attendance at the event would be in the interest of the employee's agency and furthers the agency's programs and operations.

The MPAA is aware of the obligation to insure that each event to which employees of the executive branch are invited be sufficiently informative and relevant to an agency's programs and operations. As recently as January 2008, OGE recognized that MPAA screenings would qualify as a widely attended gathering.² The MPAA has diligently structured the scope and format of information provided to attendees and approaches the events not as opportunities to "cultiv[ate] familiarity and access that a lobbyist may use in the future to obtain a more sympathetic hearing" but rather as "substantive events that would provide a legitimate educational or professional development benefit that furthers the interests of an agency." ⁴

MPAA and its member companies traditionally host widely attended events at MPAA headquarters in Washington. As in the past, currently these events consist of a gathering of guests from various sectors of the Washington community including representatives from the

¹ 76 Fed. Reg. at 56333.

² Response to Motion Picture Association of America Request for Clarification of Exceptions to the Gift Rules Under the Standards of Conduct, January 30, 2008, http://www.oge.gov/DisplayTemplates/ModelSub.aspx?id=2147483869.

³ 76 Fed. Reg. at 56333.

⁴ *Id*.



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industry, attendees from the legislative and executive branches, representatives from the press, and foreign officials. The events include informal discussions regarding the industry, formal presentations on specific industry-related issues, the serving of permitted refreshments, and the viewing or screening of a movie, the industry's product. The events provide a meaningful opportunity for attendees to exchange views with other attendees representing a diversity of views or interests and inform attendees about the creation, production, marketing, and international exportation of movies as well the challenges facing the industry regarding copyright infringement and piracy. For example, the MPAA recently hosted a screening to showcase the product of increased cooperation between the U.S. and Chinese film industries where both U.S. and Chinese officials were in attendance.

The format of the events allows the industry to make both formal and informal presentations concerning a variety of issues that affect the movie industry and to answer questions that attendees may raise. Topics typically include the importation of the international recognition of intellectual property rights, the economic impact of the movie industry or the use of new technology and may relate directly to issues raised in the film and address the economic impact that the movie industry has on a local and national basis. Depending on the nature of the event, briefing packets are made available to attendees containing statistical information on the industry and other informative materials that address issues confronting the movie industry.

The number of attendees may vary but is typically between 30 and 85, with attendees from various elements of the Washington community. Those in attendance include individuals serving in government positions as well as those who do not. On occasion, Ambassadors and other official representatives of foreign governments participate.

The educational components of the events are designed to allow the industry to communicate on issues of vital importance to the industry and the nation with policy makers and others. In addition to the use of an actual movie as an example of the work of the industry, these events feature educational information provided in video, printed and or live oral presentation formats. Of course, the movies themselves not only serve as exemplars of work of the industry, putting into context the production, marketing, trade and intellectual property protection challenges confronting this industry and the subject of extensive governmental action, but can also serve as the communication of relevant information. Like a widget manufacturing association hosting an event designed to inform policy makers on the issues of concern to manufacturing and marketing of widgets, the motion picture industry hosts events designed to inform policy makers on the issues of concern to manufacturing and marketing of movies.



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OGE proposes to preserve a "substantive core" of the widely attended gathering exception for "substantive events that...provide a legitimate educational or professional development benefit." Events held at the MPAA do exactly that and should be accurately designated as widely attended gatherings, not social events as characterized in the proposed rulemaking.

Please call us with any questions.

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Respectfully submitted;