

THE MEDIA COALITION INC

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MEDIA COALITION AND §2257 RECORD KEEPING REGULATIONS

Congress and the Department of Justice recently expanded the §2257 law and regulations. The changes include:

- Expanded which images were subject to recordkeeping requirements to include images of simulated sex or lascivious display of the genitals.
- Expanded the existing law explicitly to cover digital and digitally created images.
- Broadened the definition of “produces” to potentially include distributors and retailers who had no contact with models or subjects, and thereby
 - required them to keep records subject to inspection at anytime, and
 - forced those who suddenly found themselves within the scope of the law to purge their material of older images (because of the retroactive nature of the law) or become susceptible to criminal charges.
- Created §2257A as a safe harbor for companies that maintain business records.
- Added additional requirements to disclaimer labels to be in compliance.

Media Coalition takes action when proposed changes pose serious administrative obstacles for businesses.

- In July 2006, Adam Walsh law passed with changes to §2257 and new §2257A. Media Coalition joined a broad group in opposition to proposed amendments to §2257. The group, representing a wide range of interests, sent letters to legislators in both the House and Senate. The negotiations resulted in improved language that mitigated the effect of the original changes.
- Media Coalition distributed to members a comprehensive briefing book with a complete history of §2257 containing all the court decisions, letters, comments, and other documents covering since its original enactment in 1988.
- In June 2007, Department of Justice proposes first set of regulations pursuant to 2006 law. Media Coalition responded by submitting a comment challenging certain provisions and seeking clarification on others. Department of Justice issues proposed regulations for §2257A the following year.
- January 2009, Department of Justice releases final regulations for §2257 and §2257A. Media Coalition distributes extensive analysis on both sections to members. The analysis covers the practical impact on doing business and legal questions unanswered by the regulations.
- Media Coalition continues to monitor challenges to different parts of the regulations in federal courts in Colorado, Ohio and elsewhere.

Media Coalition has followed §2257 since it was originally introduced, opposing burdensome proposals that would affect mainstream businesses.

Congress enacted the Child Protection and Obscenity Enforcement Act, 18 U.S.C. §2257, in 1988. The intent of the regulation was to aid in prosecuting child pornography by requiring records to be kept of all performers’ ages. However, as enacted, it created overbroad restrictions on content producers, distributors, and retailers. Members of Media Coalition challenged the overbroad sections of the law, leading to a 1989 decision that found several portions of the law unconstitutional.

The Media Coalition is a trade association that defends the First Amendment rights of publishers, booksellers, and librarians, recording, motion picture and video games producers, recording, video, and video game retailers, and consumers in the United States.

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Association

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Association

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