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Berman, copyright fan, to run key panel

The L.A. congressman's rise cheers the media industry but backers of free content are wary.

By Jim Puzzanghera, Times Staff Writer
December 11, 2006

WASHINGTON — It will be a comforting sound to the entertainment industry when Rep. Howard L. Berman pounds a key House subcommittee to order next month.

That's because the Valley Village Democrat sometimes known as Hollywood's congressman will be wielding the chairman's gavel after his party takes control of Congress. The position will give Berman considerable sway over laws regulating the transition to digital media.

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But Berman's oversight of the Judiciary Committee's panel on the Internet and intellectual property is likely to give a splitting headache to consumer electronics makers and public interest groups advocating unfettered use of digital content.

"There's two problems with Howard Berman," said John Palafoutas, the chief lobbyist for AeA, a high-tech trade group that wants fewer government restrictions on digital information. "One, he's really smart. And two, he knows how to represent his constituents, which in this case is

Hollywood."

Berman's San Fernando Valley district is home to thousands of people who work in the entertainment industry, and he has championed their interests since arriving in Congress in 1983.

Employees and political action committees from television, motion picture and recording companies have returned the favor: Berman has received more contributions from them — \$1.1 million — than from any other sector since 1989, according to the Center for Responsive Politics.

"He's a huge asset," said John Feehery, executive vice president of external affairs for the Motion Picture Assn. of America. "He's somebody who understands the importance of our industry to the overall economy and understands the importance of strong copyright laws to protect and promote our industry."

Berman, 65, a lawyer known for his political acumen, makes no excuses for his focus on the legal concerns of Hollywood.

"It's beyond a parochial issue," he said. "It's a very important national industry, one of the ones where we are most competitive around the world, and the one thing that can undermine it is rampant piracy."

As the top Democrat on the Courts, the Internet and Intellectual Property subcommittee, Berman has worked closely with the Republican chairman, Lamar Smith of Texas. The two have similar views on intellectual property, supporting strong protections on copyrights and limits on the ability of people to make digital copies of video or music — even to transfer content between devices or to share it with friends.

Lobbyists say Berman has a much closer relationship with Hollywood than does Smith. And with Berman's fellow Democrats, including Nancy Pelosi of San Francisco, soon

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controlling the House and Senate, the liberal-leaning entertainment industry is optimistic about gaining clout in Congress.

"When you're from Hollywood and you step into a Republican's office, you have a different reception than when you step into a Democrat's office," said Feehery, a former top GOP aide on Capitol Hill. "I think the Democrats by and large just look at Hollywood differently than the Republicans.... They're just much more willing to hear our case."

Berman has a reputation for listening to everybody.

"There are some folks who disagree with us completely who don't even want to hear what we have to say," said Gigi Sohn, president of Public Knowledge, a group opposed to restrictions on how people legally use digital content. "He wants to hear what consumer groups have to say."

Berman's open door gives Sohn hope. But she said it was difficult to overcome Hollywood's home-field advantage.

"This is Mr. Berman's constituency and I give him credit; he's representing his constituency," she said. "The puzzle he's got to figure out is, how can he represent his corporate constituency without completely angering consumers?"

Berman said he was not opposed to flexible rules on video and music but wanted a balance that preserved the financial incentives for moviemakers, musicians and others to create new content. He said the principle of fair use, which allows people to make limited copies of their music and video collections, should be fair to everyone.

"I want to protect fair use, but sometimes I hear some of these arguments about digital freedom meaning freedom to make permanent copies to spread around to everyone for free," Berman said. "Sometimes I look at that as stealing."

Among his top priorities for the subcommittee is updating music licensing and royalty standards for the digital age. Berman and Smith sponsored legislation last year backed by the recording industry to create a blanket, mandatory licensing system that would make it easier for online services to get permission to sell music.

"We want to be able to exploit the new technologies, but we have a music publishing system that makes it very hard for them to get all the content rights," Berman said.

The bill passed the subcommittee unanimously in June but progressed no further. Several high-tech, consumer electronics and public interest groups opposed it, partly because the legislation would extend licensing requirements to home recording. Although such uses would be licensed free, the legal precedent worried them.

Getting that bill and other intellectual property legislation through Congress is tricky. The issues are complicated and don't break down along party lines. Lawmakers' views often are based on the makeup of their constituents. Outgoing Senate Majority Leader Bill Frist (R-Tenn.), for example, has been a big supporter of copyright protections because of Nashville's role in country music.

Those dynamics make legislative skills important, said Mitch Bainwol, head of the Recording Industry Assn. of America. Berman, he said, has the ability to muster the broad bipartisan support needed to turn ideas into laws.

"Everybody views him as a wonderfully honest broker with a deep substantive grasp of the issues and an unusual ability to legislate," Bainwol said.

That's what concerns people opposed to Hollywood's vision of copyright protection.

"Howard Berman's a smart guy," Palafoutas said. "I wish he wasn't so smart."

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