

May 14, 2020

Dear Members of Congress:

The undersigned entities thank you for your efforts to provide relief to small businesses and individual creators throughout the country during the COVID-19 pandemic, and for your continued support for copyright and the creative community. We are associations, companies and organizations that represent individual creators and small and large businesses and non-profits from a broad and diverse array of copyright industries, including movies and television, music, book publishing, video games, software, live theater, news, research, visual arts, sports and many others. We write to urge your continued support for the protections afforded to important creative and informative works under U.S. copyright law.

Few laws and few industries do more to support and propel the U.S. economy and generate a trade surplus than copyright law and the creative industries. In 2017, the core copyright industries added \$1.3 trillion to the U.S. GDP, accounted for 6.85% of the U.S. economy and employed nearly 5.7 million workers. Sales of copyrighted works by the core copyright industries in foreign markets amounted to \$191.2 billion—exceeding the exports of major U.S. industries such as chemicals, aerospace, agricultural, electrical, and pharmaceuticals.<sup>1</sup>

The creative and information industries have provided unparalleled access to entertainment and informational works to make life, work, leisure, worship, and education easier for everyone during this crisis.<sup>2</sup> A well-functioning copyright system is at the heart of the unprecedented and widespread availability of copyrighted works via broadly accessible platforms at a time when demand for access to such works is unparalleled.

Like many others, individuals and businesses that work in the creative industries have been hit hard by the pandemic. Most creators were struggling to make ends meet long before the COVID-19 pandemic. For instance, on average, in the U.S., musicians earn \$35,000 per year, and photographers earn \$34,000. The median writing income for authors is \$20,300. But the financial challenges posed by this pandemic – which have been exacerbated by global increases in piracy—have made things exponentially worse, wreaking havoc on the careers and precarious finances of America’s creative community.

The cancellation of concerts and shows, film and television productions, book tours and speaking engagements, weddings and photography shoots, art exhibitions, and other events means hundreds of thousands of creators, and other workers who make their living in the creative industries, find themselves out of work. Weakening copyright would not only make their plight and the troubles of many others much worse, it would also harm the public whose

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<sup>1</sup> *International Intellectual Property Alliance (IIPA) “Copyright Industries in the U.S. Economy: The 2018 Report.”*

<sup>2</sup> <https://copyrightalliance.org/news-events/copyright-news-newsletters/resources-from-creator-copyright-community-to-ease-coronavirus-impact/>

interest lies in the continued creative and cultural contributions that we have come to rely on as the product of strong copyright laws.

We are therefore disappointed that certain groups have chosen to exploit the COVID-19 pandemic to further their long-held agendas to weaken copyright protections afforded to creators of all types. It is against this background that we implore you not to lose sight of the value and importance of copyright. The Framers of our Constitution rightly believed that copyright protection would benefit society by incentivizing creativity and innovation when they included it in Article 1, Section 8, Clause 8 of the Constitution, and two centuries later copyright law continues to help drive the U.S. economy and create millions of jobs and small businesses.

Existing copyright law is well suited to adapt to the circumstances presented by the current crisis. Still, taking advantage of the circumstances, these groups are citing the pandemic as an excuse to roll back well-established rights and dramatically expand exceptions to copyright law, most notably fair use. Their unsound proposals should be rejected for several reasons, not least of which that there is no basis in copyright law, its legislative history, or the fair use defense itself to support altering the parameters of copyright law or fair use during a national emergency, and no such changes were implemented during the many other emergency situations we have faced as a country, including World Wars I and II, the 1918 Flu Pandemic, the Great Depression, the attacks on September 11, 2001, and many others.

U.S. copyright law is flexible in that it provides incentives for copyright owners to adapt to market circumstances to ensure their works reach their audience, as well as certain exceptions and accommodations that enabled it to adapt where necessary to the circumstances presented by the current crisis. For example, copyright law contains an exception that enables teachers and students to recreate in-classroom learning over the internet without running afoul of copyright law. This provision, the Technology, Education, and Copyright Harmonization (TEACH) Act, was the work of academic institutions, publishers, libraries and other stakeholders working together with Congress to develop an exception in the law that allows teachers and students to access scholarly and creative works in a way that respects the rights of copyright owners and creators. Likewise, the Copyright Act also includes express exceptions to allow copyrighted works to be used “in the course of services at a place of worship or other religious assembly,”<sup>3</sup> and organizations already exist to provide affordable licenses for those uses not exempted by the law.

When this pandemic comes to an end and we start the long road back to economic and societal recovery, the creative industries will be at the forefront of that rebuilding process. As we navigate uncharted waters, it is essential that Congress continue its long-held support for strong copyright protection and not waver in its commitment to the rights of creators and copyright owners to determine when and how they make their works available.

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<sup>3</sup> 17 U.S.C. 110(3).

ACT I The App Association  
American Association of Independent Music (A2IM)  
American Intellectual Property Law Association (AIPLA)  
American Photographic Artists (APA)  
American Society for Collective Rights Licensing (ASCRL)  
American Society of Composers, Authors and Publishers (ASCAP)  
American Society of Media Photographers (ASMP)  
Artists Rights Society (ARS)  
Association of American Publishers (AAP)  
Association of Independent Music Publishers (AIMP)  
The Authors Guild  
BMI  
Christian Music Trade Association (CMTA)  
Church Music Publishers Association (CMPA)  
Copyright Alliance  
Copyright Clearance Center (CCC)  
CreativeFuture  
Department for Professional Employees, AFL-CIO  
Digital Media Licensing Association (DMLA)  
Directors Guild of America (DGA)  
Dramatists Guild  
Folk Alliance International  
Future of Music Coalition  
Global Music Rights (GMR)  
Gospel Music Association (GMA)  
Graphic Artists Guild (GAG)  
Independent Book Publishers Association (IBPA)  
Independent Film & Television Alliance (IFTA)  
International Alliance of Theatrical Stage Employees (IATSE)  
Motion Picture Association  
MPA - The Association of Magazine Media  
Music Artists Coalition (MAC)  
Music Business Association  
Music Managers Forum-US (MMF-US)  
Nashville Songwriters Association International (NSAI)  
National Association of Broadcasters (NAB)  
National Association of Science Writers (NASW)  
National Fire Protection Association (NFPA)  
National Music Publishers' Association (NMPA)  
National Press Photographers Association (NPPA)  
News Media Alliance (NMA)  
North American Nature Photography Association (NANPA)  
Novelists, Inc.  
Professional Photographers of America (PPA)  
Recording Academy

Recording Industry Association of America (RIAA)  
Science Fiction and Fantasy Writers of America (SFWA)  
Screen Actors Guild - American Federation of Television and Radio Artists (SAG-AFTRA)  
SESAC  
Sisters in Crime  
Small Business & Entrepreneurship Council  
Society of Composers & Lyricists (SCL)  
Software & Information Industry Association (SIIA)  
Songwriters Guild of America (SGA)  
Songwriters of North America (SONA)  
SoundExchange  
Southern Gospel Music Guild (SGMG)  
U.S. Chamber of Commerce