

December 7, 2020

The Hon. Mitch McConnell
Majority Leader
317 Russell Sen. Office Bld.
Washington DC, 20510

The Hon. Chuck Schumer
Minority Leader
322 Hart Sen. Office Bld.
Washington, DC 20510

The Hon. Nancy Pelosi
Speaker
1236 Longworth HOB
Washington, DC 20515

The Hon. Kevin McCarthy
Minority Leader
2468 Rayburn HOB
Washington, DC 20515

RE: Oppose Passing H.R. 2426 Outside of Regular Order

Dear Leader McConnell, Speaker Pelosi, Leader Schumer, and Leader McCarthy:

The American Civil Liberties Union, on behalf of its more than three million members, supporters, and activists, writes to you today regarding recently reported efforts to include S. 1273/H.R. 2426, the CASE Act in upcoming legislation to fund the government. The CASE Act is a controversial provision that would significantly alter the enforcement of copyright law and would have the unintended consequence of undermining free expression online. Because we recognize that it is essential to fund the federal government, particularly during the ongoing public health crisis, we ask that you decline to include the CASE Act in the upcoming funding bill and instead allow that provision to proceed through regular order where Members will have an opportunity to address the significant concerns raised by the bill before it passes into law.

As we have said before, we do not oppose the CASE Act's central idea of creating a small claims process to allow copyright owners to assert infringement and be awarded damages for the harm caused. There is evidence that strongly suggests a need for such a system, as many copyright holders have argued. However, because the CASE Act could affect every person that communicates online, we believe that changes are needed to ensure adequate safeguards for due process and the protection of the freedom of speech. In particular, the bill should be amended to provide for access to meaningful judicial review, a reduction in the damages available for small claims violations, and



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additional safeguards to ensure the process is procedurally fair for both parties. In order for those essential changes to be made, we ask that you decline to include this bill in any must-pass government funding bill, and instead allow the CASE Act to be considered through the regular order process where Members will have the opportunity to address these concerns.

A more comprehensive explanation of our concerns is in our earlier letter to the House of Representatives, which is available on the ACLU's website at [this link](#).¹

Thank you for your consideration and attention. We look forward to working with Congress to improve the proposed package through the legislative process. Please reach out to Kate Ruane, kruane@aclu.org, if you have any questions.

Sincerely,



Ronald Newman
National Political Director



Kate Ruane
Senior Legislative Counsel

¹ Letter from the ACLU to the House of Representatives (Oct. 21, 2019), <https://www.aclu.org/letter/aclu-vote-recommendation-hr-2426-case-act>.

