

United States Senate

WASHINGTON, DC 20510

VIA ELECTRONIC TRANSMISSION

March 12, 2021

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear General Garland:

Congratulations on your recent confirmation as United States Attorney General. We were proud to support your nomination and look forward to working with you to protect American intellectual property and innovation. We write you today regarding the need to pursue criminal copyright penalties against commercial piracy enterprises under the Protecting Lawful Streaming Act (PLSA).

Unlawful streaming services cost the U.S. economy an estimated \$29 billion per year. This illegal activity impacts growth in the creative industries in particular, which combined employ 2.6 million Americans and contribute \$229 billion to the economy per year. In short, unlawful streaming is a threat to our creative industries and the economic security and well-being of millions of Americans.

In order to address this problem, as part of last year's omnibus appropriations bill Congress enacted the PLSA. This bill empowers the Department of Justice to pursue felony charges against criminal commercial piracy enterprises. Importantly, this bill makes clear that only commercial piracy organizations which have no legitimate purpose other than to facilitate copyright infringement are subject to prosecution. In other words, this legislation is narrow and targeted and does not allow for the prosecution of individual streamers or legitimate business operations.

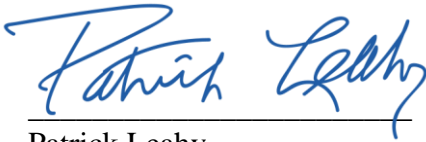
We believe prosecutions under the PLSA should be an important priority for you as Attorney General. However, we also believe that prosecutions must be appropriately targeted and limited in scope to the types of activity and organizations Congress intended. Accordingly, we ask that you answer the following questions by no later than April 12, 2021:

1. Now that have you been confirmed, will you commit to making prosecutions under the PLSA a priority? If so, what steps will you take during your first one hundred days to demonstrate your commitment to combating copyright piracy?
2. How quickly do you intend to update the U.S. Attorneys manual to indicate prosecutors should pursue actions under the PLSA?

3. When updating the U.S. Attorneys manual, what type of guidance do you intend to provide to make clear that prosecutions should only be pursued against commercial piracy services? Such guidance should make clear that the law does not allow the Department to target the ordinary activities of individual streamers, companies pursuing licensing deals in good faith, or internet service providers (ISPs) and should be reflective of congressional intent as reflected in our official record.¹

Thank you for your prompt attention to this important matter. We look forward to your reply and to working with you to combat copyright piracy. If you have any questions, please do not hesitate to contact us.

Sincerely,



Patrick Leahy
United States Senator



Thom Tillis
United States Senator

¹ See 166 Cong. Rec. S7931-32 (daily ed. Dec. 21, 2020). This statement for the Congressional Record by Senator Tillis make clear, among other things, that the PLSA is not aimed at ISPs whose services may be misused or abused by their customers or others in furtherance of an infringement scheme, where the service provider does not itself share the requisite criminal intent. An ISP's offering of high-speed connections that allow its customers to access the internet or a website, its failing to block or disable access to particular online locations, or its failing to take measures to restrict the use of or deny its customers access to internet access service would not be sufficient to demonstrate the requisite criminal intent under the bill.