

April 4, 2022

The Honorable Patrick Leahy, Chair
Senate Committee on the Judiciary
Subcommittee on Intellectual Property
Washington, DC 20510

The Honorable Thom Tillis, Ranking Member
Senate Committee on the Judiciary
Subcommittee on Intellectual Property
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Tillis,

On behalf of America's creative industries and millions of individual musicians, songwriters, authors, filmmakers, photographers, and other creators, we thank you for your work to amend and update the decades-old Digital Millennium Copyright Act (DMCA).

The Strengthening Measures to Advance Rights Technologies (SMART) Copyright Act of 2022 addresses one of the major failures of the DMCA: the fact that, after nearly twenty years, not one "Standard Technical Measure" has been officially identified as Congress originally intended and expected to occur. We applaud your effort to breathe new life into what the Copyright Office [recently identified](#) as the "untapped potential" of STMs.

By clarifying and strengthening this framework, and creating new avenues for designation and implementation of effective and workable technical measures to address online infringement, the SMART Copyright Act brings the DMCA into the 21st Century, creating a careful and thoughtful process by which the Copyright Office can tap technical expertise from across the government and private sector to provide guidance and new tools to make the internet work better for creators, consumers, and digital services and platforms. Smaller services and apps have much to gain from this approach, which will level the playing field for all.

Critics wrongly claim the bill introduces new technology mandates – a distortion of your legislation, which includes no standards or mandates. The SMART Copyright Act simply creates a process by which expert agencies can gather information, vet ideas through rigorous and transparent processes, and engage stakeholders in identifying antipiracy approaches that have proven safe, practical, and effective in the marketplace.

We also strongly reject claims that the bill would "break the careful balance between innovation and copyright protection struck by the DMCA." That balance is already broken as the Copyright Office recently made clear when it found "the balance Congress intended when it established the section 512 safe harbor system is askew."

The SMART Copyright Act will encourage cooperation between platforms and rightsholders to address online piracy in practical, effective ways that benefit creators, consumers, and services.

Thank you for your leadership on these issues.

Sincerely,

American Association of Independent Music (A2IM)

American Photographic Artists (APA)

American Society for Collective Rights Licensing (ASCRL)

American Society of Composers, Authors and Publishers (ASCAP)

Artist Rights Alliance (ARA)

Association of American Publishers (AAP)

Authors Guild (AG)

BMI

Christian Music Trade Association (CMTA)

Church Music Publishers Association (CMPA)

Copyright Alliance

CreativeFuture

Department for Professional Employees, AFL-CIO

Directors Guild of America (DGA)

Gospel Music Association (GMA)

Graphic Artists Guild (GAG)

Independent Film & Television Alliance (IFTA)

International Alliance of Theatrical Stage Employees (IATSE)

Living Legends Foundation (LLF)

Motion Picture Association (MPA)

Music Artists Coalition (MAC)

Nashville Songwriters Association International (NSAI)

National Music Publishers' Association (NMPA)

National Press Photographers Association (NPPA)

News Media Alliance (NMA)

North American Nature Photography Association (NANPA)

Professional Photographers of America (PPA)

Recording Academy

Recording Industry Association of America (RIAA)

Rhythm and Blues Foundation

Screen Actors Guild-American Federation of Television and Radio Artists (SAG AFTRA)

SESAC

Society of Composers & Lyricists (SCL)

Songwriters Guild of America (SGA)

Songwriters of North America (SONA)

SoundExchange