



LIBRARY COPYRIGHT ALLIANCE COMMENTS ON WHITE PAPER ON REFORM OF THE COPYRIGHT OFFICE

The Library Copyright Alliance (“LCA”) consists of three major library associations—the American Library Association, the Association of College and Research Libraries, and the Association of Research Libraries—that collectively represent over 100,000 libraries in the United States employing more than 350,000 librarians and other personnel. An estimated 200 million Americans use these libraries over two billion times each year.

LCA has participated extensively in the House Judiciary Committee’s ongoing review of the nation’s copyright system. Witnesses affiliated with LCA testified at two of the hearings, and LCA submitted statements for record in connection with eight other hearings. Additionally, LCA provided the Committee with a summary of its recommendations for amendments to Title 17 that would enable libraries to better perform their missions. We now welcome the opportunity to comment on the White Paper concerning reform of the Copyright Office.

We strongly agree with the objective of modernizing the Copyright Office so that it can meet the challenges of the 21st Century. We agree that the Office should maintain an up-to-date digital, searchable database of all copyrighted works and associated copyright information. We further agree that the Copyright Office should constitute advisory committees so that it can more quickly receive information concerning marketplace changes. We also agree that the Office should add the positions of Chief Economist and Chief Technologist.

However, we disagree that statutory reform of the Copyright Office is necessary to accomplish these objectives. Indeed, pursuing the statutory changes the White Paper proposes may actually delay ongoing efforts to modernize the Office and its technology systems. Over the past twenty years, the Copyright Office has failed to take full advantage of new technologies to keep pace with the growing demands of its users. This failure has many causes, including lack of financial resources, lack of technical expertise, and lack of sufficient attention from the leadership of the Office and the Library. There is no reason to believe that greater autonomy for the Office will resolve these problems. To the contrary, these problems suggest that the Office still requires supervision, provided that it is the right kind of supervision. There now is new leadership at the Library with the experience and commitment to manage significant technological improvements throughout the Library. The Office would benefit greatly from this new leadership team.

Moreover, there now is an opportunity to appoint a new Register with the necessary experience and commitment to focus on technological and administrative improvements. Converting the position of Register to a presidential appointment increases the likelihood

of politicization, resulting in a Register more interested in policy than management—exactly what the Office does not need.

Without question, the Copyright Office of 2017—and probably 2020—should maintain searchable databases, convene Advisory Committees, and have positions such as Chief Economist and Chief Technologist. But it is hard to predict what the Copyright Office of 2030 will need. Given the speed of technological change, a 21st Century Copyright Office must be more nimble than a 20th Century Copyright Office. It must be able to adapt to constantly evolving circumstances, without legislation defining precisely which tools it should provide the public, how it should receive input from stakeholders, and what employment positions it should create. Codification of administrative matters leads to ossification. To be sure, Congress should continue to provide the Office with oversight and guidance, but legislation of the nature proposed by the White Paper likely would lead to rigidity and obsolescence.

Finally, we appreciate the challenges low-value infringement cases pose to individual artists. Unfortunately, a small claims system consistent with the Copyright Office report would not successfully address the problem. Defendants rarely would consent to the jurisdiction of the small-claims tribunal because it would not be in their interest to do so; they benefit from the barriers currently posed by the high costs of federal court litigation. Accordingly, Congress and the Copyright Office would expend significant time and resources developing a small claims system, but it would hardly get used.

LCA looks forward to working with the House Judiciary Committee, and other committees with jurisdiction, in ensuring that the Copyright Office is improved to better serve the interests of all its stakeholders.