



**Charles H. Rivkin**  
CHAIRMAN & CEO  
MOTION PICTURE ASSOCIATION

February 11, 2020

The Honorable Thom Tillis  
Chairman, Subcommittee on Intellectual Property  
Senate Judiciary Committee  
United States Senate  
113 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Christopher A. Coons  
Ranking Member, Subcommittee on Intellectual Property  
Senate Judiciary Committee  
United States Senate  
218 Russell Senate Office Building  
Washington, D.C. 20510

Dear Chairman Tillis and Ranking Member Coons,

Thank you for convening these hearings examining the Digital Millennium Copyright Act of 1998. As the Chairman & CEO of the Motion Picture Association, I represent the leading U.S. film, television, and streaming companies. My members and all creators rely on a combination of strong free speech and copyright protections – both enshrined in the U.S. Constitution – to tell their stories and reach audiences around the world. And since our nation’s founding, Congress has from time to time reviewed the efficacy of laws underpinning the creative economy to ensure the cultural marketplace continues to thrive – as you are doing here.

Since the enactment of the DMCA twenty-two years ago, the digital economy has flourished and the internet has grown into a centerpiece of our daily lives. Film and television studios have embraced this revolution – pioneering new forms of digital distribution and licensing our content to hundreds of competitive new services. We also continue to serve as an engine for the U.S. economy, supporting 2.6 million jobs, contributing \$229 billion to America’s GDP, and accounting for a trade surplus of \$10.3 billion annually.

Yet even as the digital economy thrives, the central promise of the DMCA remains unfulfilled – online piracy remains a serious concern to our members and the creative industries. Through Section 512 of the DMCA, your predecessors sought to incentivize cooperative accountability.

They aimed for a bargain: online intermediaries would work cooperatively with creators to ensure effective enforcement of their rights online in exchange for a shield from the threat of liability. Congress predicated the shield on satisfying a series of meaningful obligations designed to separate intermediaries operating in good faith from those who profit by turning a blind eye to infringement.<sup>1</sup>

Unfortunately, in the intervening twenty-two years, courts have diluted Section 512's protections for creators, expanding the safe harbors for online intermediaries while simultaneously easing their obligations to act responsibly to address the widespread availability of pirated works. The equitable balance Congress envisioned never materialized. As a result, the burden to combat piracy now rests too heavily on creators, and the safe harbor protections are enjoyed not only by good faith intermediaries but also those who build their business using infringing works.<sup>2</sup>

That lopsided distribution of responsibility benefits one sector at the expense of another, falling short of Congressional intent. We have made some progress on trying to address this imbalance through voluntary collaboration with other industry players, but much more can be done. These hearings provide a forum to assess whether the DMCA's goals have been met and whether adequate incentives are in place to achieve cooperative accountability.

The MPA looks forward to participating in this important process over the coming year.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. H. Rivkin', with a long horizontal flourish extending to the right.

Charles H. Rivkin

CHAIRMAN

CHIEF EXECUTIVE OFFICER

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<sup>1</sup> Senate Committee on the Judiciary, Report on the Digital Millennium Copyright Act of 1998, S. Rep. No. 105-190, at 48, 105th Cong., 2d Sess. (May 11, 1998)

<sup>2</sup> Gene Maddaus, Studios Shutter Pirate Site That Got More Traffic Than Hulu, Variety, Oct. 30, 2019, <https://variety.com/2019/biz/news/openload-streamango-alliance-for-creativity-and-entertainment-1203389534/>