Written Testimony of John Delli Venneri
General Counsel, The American Society of Mechanical Engineers

Before the House Judiciary Committee
Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet

Hearing: "Protecting U.S. Leadership in Codes Development and Enhancing Public Access"

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Chairman Issa, Ranking Member Johnson, and Members of the Subcommittee:

Thank you for the opportunity to testify today. I am John Delli Venneri, General Counsel of The American Society of Mechanical Engineers, or ASME.

ASME is a 501(c)(3) nonprofit standards development organization (SDO) that has served the engineering profession and the public for more than 140 years. We develop technical safety standards that underpin critical infrastructure across the United States and around the world.

Broadly speaking, our standards help ensure that construction cranes do not collapse, nuclear facilities do not fail, oil and gas pipelines do not rupture, and the turbines used in civilian and fighter jets are cutting edge. These include, for example:

- HRT-1 Rules for Hoisting, Rigging, and Transporting Equipment for Nuclear Facilities
- RA-S-1.2 – Severe Accident Progression and Radiological Release (Level 2) PRA Standard for Nuclear Power Plant Applications for Light Water Reactors (LWRs)
- AG-1 – Code on Nuclear Air and Gas Treatment
- B1.22M – Gages and Gaging for MJ Series Metric Screw Threads
- B31.8S – Managing System Integrity of Gas Pipelines

ASME's flagship Boiler and Pressure Vessel Code is used as a foundation for many civilian and defense technologies. The history of that code goes back to 1911 and was an outgrowth of tragedy following the 1905 Grover Shoe Factory explosion that killed 58 people in Brockton, Massachusetts.

Our standards are developed through rigorous, consensus-based processes involving thousands of experts and significant private investment. ASME, and organizations like us, promote both safety and commerce by establishing widely accepted engineering rules so that systems work as intended and failures are prevented before they occur.

With that background, I am here today to express ASME's strong opposition to the Pro Codes Act.

This testimony proceeds in three parts:

1. The Pro Codes Act harms ASME's copyright materially, perhaps existentially. It does so by creating a system of "winners and losers" by business model, disproportionately burdening one segment of standards developers while benefiting another. Because of this, nobody should make the blanket statement that the bill 'is good for copyright' because it is not good for ASME's copyright or other similarly positioned SDOs.

2. The Pro Codes Act poses risks to U.S. national security and leadership; and

3. The Pro Codes Act does not protect copyright – it undermines it, in an unprecedented fashion that creates broader legal, constitutional, and policy concerns.

I. The PRO Codes Act Is Not Neutral -- It Picks Winners and Losers

The Pro Codes Act is often described as a "common-sense" effort to balance copyright protections with the need for public access to the law. In practice, however, it does something far more consequential.

We agree that members of the public should have meaningful access to the laws that govern them. The question is not whether access matters, but how to provide it without undermining the system that produces standards that industry and commerce rely on in the first place.

The bill provides that when a privately developed standard is incorporated into law or regulation, the standards organization must make the text of that standard available online for free. On paper, that may sound straightforward. In reality, it fundamentally changes how copyright works.

The PRO Codes Act effectively creates an entirely new copyright framework, imposing a blunt, one-size-fits-all mandate that falls unevenly across private actors. Though presented as a neutral rule, its practical effects are anything but neutral: it systematically advantages certain business models while undermining others. This results in three fundamental problems.

First, the Act applies a single, uniform rule to all privately developed standards that may be incorporated by reference, regardless of subject matter or context. It draws no meaningful distinctions between highly technical engineering standards as opposed to the text of laws, or between standards incorporated in their entirety as opposed to standards incorporated only in part, or to standards used extensively as opposed to standards used rarely. The Act has no mechanism to account for these differences.

Second, that one-size-fits-all rule does not operate evenly across the standards community. It reflects a "balance" between copyright protection and public access that works only for a subset of organizations – mainly those that draft codes written as laws and seek to have them adopted word for word as the actual text of the law. For SDOs like ASME, whose technical standards are intended for private industry and simply referred to in the law (and that reference can be unlimited in scope), the Pro Codes Act imposes its most severe burdens, requiring access without compensation and without any meaningful due process protections.

Third, the Act's consequences are triggered not by any action of the copyright holder, but solely by the independent decision of a governmental entity at any level (federal, state, or local) to incorporate a standard by reference. Standards developers have no ability to prevent that incorporation. Yet once it occurs, they face a stark choice: publish the work online for free or lose copyright protection altogether. This structure places privately developed intellectual property at the mercy of government action. A single decision by, for example, a local government official to cite a standard – something the standards organization cannot control – could strip that organization of copyright in its most critical standards.

For organizations like ASME, the form of interaction with government is not a trivial matter. ASME funds the creation of future safety standards through sales and licensing of existing standards to which it holds the copyright. The Pro Codes Act is thus a direct threat to a model that supports the development and maintenance of critical safety standards – a structural change with far-reaching consequences.

This is not a balanced solution. It picks winners and losers within the standards community. The Committee now has an opportunity to step back and work toward a solution that works for all SDOs.

II. The Pro Codes Act Poses Risks to U.S. National Security and Leadership

The Pro Codes Act also raises important concerns about U.S. national security and its leadership in global standards development. Standards are not simply a set of rules, they enable the development of cutting-edge technology that is safe, repeatable, and interoperable.

Technical standards are foundational to the safe and reliable operation of critical infrastructure, including energy systems, manufacturing, transportation, and defense-related applications. They also shape global markets by establishing the rules that govern how technologies are designed, built, and deployed.

The United States has long led the world in standards development through a system that relies on private-sector expertise, voluntary consensus, and sustained investment. That leadership is not guaranteed. Other countries, including strategic competitors, are actively working to expand their influence on global standards-setting bodies and processes. For example, the 2025 annual report to Congress by the congressionally created US-China Economic and Security Review Commission cites a number of important areas where China seeks to diminish American interests through a concerted effort to influence technical standard setting. These include technical standards for navigation systems, operations in space, and the energy sector.

The Pro Codes Act risks undermining the model that has enabled U.S. leadership. By weakening the intellectual property protections that support standards development, the Act will erode the resources needed to maintain and advance high-quality technical standards. Because standards development is resource-intensive and depends on sustained private investment, weakening IP protections will erode the resources needed to maintain and advance these standards. Over time, that risks forcing U.S. SDOs to cede ground to geopolitical competitors.

Who writes the rules matters. The United States should not adopt policies that weaken its own standards system at a time of increasing global competition.

III. The Pro Codes Act Does Not Protect Copyright

Finally, this bill does not protect copyright—it puts it at risk. ASME develops critical safety standards, including those governing nuclear facilities, and under this legislation we would face the loss of copyright protection for those works. We are not alone. Other leading standards organizations, including those supporting aerospace and defense systems, share these concerns. This bill does not protect these SDOs' interests.

Copyright has long provided creators with defined exclusive rights, including the ability to control the display and distribution of their works. Those rights are not incidental – they are what allow SDOs like ASME to invest in developing complex, highly technical materials.

The Pro Codes Act alters this framework by conditioning copyright protection on government action that the creator does not control. A standards developer may invest substantial resources

in creating a work, only to have a government entity incorporate it by reference, thereby triggering the obligation to provide free public access.

The practical effect is to require uncompensated public distribution of privately developed works. Over time, this approach risks undermining the economic model that supports the development, maintenance, and continuous improvement of critical safety standards.

Taken together, these provisions do not clarify or preserve copyright – they weaken it. They transform copyright from a stable legal right into one that is contingent on government action and conditioned on surrendering control over one's work.

That is not protection. It is compelled forfeiture. And it places the Act on questionable Constitutional ground and would have far-reaching consequences for copyright law more broadly.

The Fifth Amendment prohibits the taking of private property for public use without just compensation. The Pro Codes Act presents a substantial risk of such a taking. The Act allows any federal, state, or local government to incorporate a privately developed standard, thereby triggering the requirement that the standard be made freely available online. Because standards developers cannot prevent such incorporation, and because the Act provides no mechanism for compensation, the resulting loss of exclusivity and economic value may constitute a taking of private intellectual property. The government should not be able to take private intellectual property simply by referencing it in law.

The Pro Codes Act also sets a concerning precedent for copyright law more broadly. It introduces a novel principle: where the government chooses to provide public access, it may require copyright holders to provide their works for free – or risk losing protection. That principle is not limited to technical standards. It could extend to other copyrighted works incorporated into legal or regulatory frameworks, including legal research tools, citation systems, and educational materials. Such a shift would represent a fundamental departure from established copyright principles, with consequences across the broader intellectual and creative economy.

Conclusion

The Pro Codes Act is presented as a balanced solution to a perceived tension between copyright protection and public access. In reality, it is a blunt instrument that:

1. Picks winners and losers by benefitting one subset of stakeholders at the expense of others;
2. Risks ceding U.S. leadership in standards development, with broader implications for national security; and
3. Does not protect copyright but instead conditions it on forced public disclosure.

In addressing issues related to public access and legal transparency, Congress should pursue solutions that are carefully tailored, consistent with existing law, and respectful of the rights of private creators. The Pro Codes Act, as currently drafted, does not meet that standard. It is, quite simply, the wrong tool for the problem before the Committee.