



Internet Archive Comments on Reforming the U.S. Copyright Office

January 31, 2017

The Internet Archive is grateful for the opportunity to comment on the proposed reforms of the U.S. Copyright Office.

The Internet Archive is a 501(c)(3) non-profit organization based in San Francisco, California. Our mission is to provide universal access to all human knowledge. As part of that mission, we collect, archive, and provide public access to many different types of material digitally, including websites, music, software, images, books, educational materials, video games, films, ephemera, and more. Brewster Kahle, founder and digital librarian for the Internet Archive, participated in the House Judiciary Committee's Silicon Valley listening tour, and welcomes this additional opportunity to help find a path forward for a modern copyright system.

A 21st Century Copyright Office must have 21st Century technology and infrastructure. We therefore agree that it should be of the highest priority to ensure that the Copyright Office develop and maintain a searchable, digital database of historical and current copyright ownership information. There are other very important technical issues that a modern Copyright Office should address as well, in particular, a system for accepting and managing the deposit of digital works. Having autonomy over IT budgeting would likely help in this effort. It is also important to have staff with the appropriate technical expertise to manage and maintain this system. As such, having a Chief Technologist also seems helpful.

We also agree that the Copyright Office should create advisory committees in order to expand its expertise in important ways and to ensure that diverse voices are heard. In particular, we think it would be helpful for the Copyright Office to hear from libraries, both traditional and digital. Non-profit digital services like the Internet Archive, Wikipedia, and the Public Library of Science may not always share the views of traditional library associations. Further, the Copyright Office should seek input from organizations that represent the public interest, and in particular, the interests of individual Internet users and less formal Internet communities.

We agree further that the Copyright Office should stay part of the Legislative Branch, and believe that it should remain under the supervision of the Librarian of Congress. The current Copyright Office has made clear that it views its mission primarily as protecting



copyright owner interests, and not as serving the general public interest, despite the fact that the U.S. copyright system is supposed to balance these two interests. The Librarian of Congress can therefore serve as an important check on this skewed perception of the Copyright Office's mission. For example, when the Copyright Office rejected an exemption for allowing text to speech conversion for the blind and visually impaired as part of the Section 1201 Rulemaking process, the Librarian of Congress was able to overrule that problematic decision. Requiring that the Register of Copyrights be a political appointee would only further politicize this role, rather than allowing the Register to focus on important technical and managerial issues. We therefore do not agree that the Register should be subject to the same nomination and consent process as other government officials.

Finally, we do not agree that a small claims system for copyright claims would be helpful. There are many reasons for this, but the most important one is that extremely high statutory damages take copyright claims far outside of the appropriate range for such a "small claims" system. Any copyright reform effort should focus first and foremost on fixing the problem of bloated statutory damages that far exceed any actual harm to copyright owners.

We thank you again for this opportunity to weigh in, and look forward to working with the Judiciary Committee on ensuring that the copyright system works for everyone in our digital age.