



January 30, 2017

Chairman Robert Goodlatte
House Judiciary Committee
U.S. House of Representatives
2138 Rayburn House Office Bldg.
Washington, DC 20515

Re: Reform of the U.S. Copyright Office

Dear Chairman Goodlatte, Ranking Member Conyers and the Members of the Committee,

SESAC appreciates the opportunity to comment on the policy proposal addressing reform of the U.S. Copyright Office. SESAC is the only Music Rights Organization in the United States. Founded over 80 years ago as a performance rights organization, SESAC has transitioned to a multi-rights music rights organization administering performance, mechanical and synchronization rights during the past two years. SESAC now provides licensing, administration and royalty services related to the use of musical compositions through all distribution channels, in all live, physical and digital formats. These services utilize sophisticated information technology and data science. SESAC's business depends on a thriving music ecosystem that supports the creative efforts of songwriters by encouraging investment in the creative process and worldwide distribution of music in a free and fair market. SESAC and its songwriter and music publisher partners require the support and services of a modern, technologically-current Copyright Office. We believe your proposal for modernization is an excellent first step and appreciates this opportunity to provide some brief comments.

The Register of Copyrights and Copyright Office Structure

SESAC agrees that the Copyright Office should remain part of the Legislative Branch where it can most effectively execute the statutory responsibilities to "Advise Congress on national and international issues relating to copyright" and other related matters as provided under Title 17, Chapter 7 of the U.S. Code. Considering the importance of such advice and the Copyright Office's function in policy, law, and rate-setting, it should have autonomy to render opinions and reports, and control its budget and technology platform, with appropriate congressional supervision.

Although alternative approaches to maintaining autonomy exist, SESAC believes that Presidential nomination with the advice and consent of Congress has the benefit of avoiding “inferior officer” clause issues. The Register could then be provided with the flexibility to appoint Copyright Royalty Judges and any deputies, economist or technologists needed by the Office and authorized in its budget.

Copyright Office Advisory Committees

In SESAC’s experience, the Copyright Office has always provided the public and representative interest groups an opportunity to be heard before taking any public action or providing advice requested by Congress. The opportunities for input have included public inquiries, roundtable discussions, public hearings and participation in Congressional hearings. As a result, the appointment of a permanent advisory committee seems unnecessary at this time. However, instances may arise where formation of an advisory committee is the most effective and efficient way to analyze, discuss, and advise the Office regarding critical issues. The Register should have the flexibility to create such ad-hoc advisory committees, as needed.

Information Technology Upgrades

SESAC commends the Copyright Office’s “Provisional Information Technology Modernization Plan and Cost Analysis,” released in February 2016 and joins the Committee in urging the quickest rollout possible. Upgrading the Copyright Office IT system is important and necessary for both rights holders and copyright users in the modern digital age. The Copyright Office should have the autonomy to evaluate its data center needs and develop technological solutions for searchable copyright registration and recordation databases that ensure data interoperability with the private sector. Such a data structure should allow copyright owners to include additional metadata (such as standard identifiers) with their registrations and recorded documents. Registration, however, should not be conditioned on the inclusion of additional information. Such a requirement would discourage participation in the system and require time and expense that many songwriters are unable to bear.

SESAC believes that accurate ownership data provided by the Copyright Office at high speeds and volume will support a thriving private sector market for the creation, licensing, administration and distribution of music and other copyrighted works. Local registries of deeds, for example, make their records available to private sector databases. These databases support an ecosystem of business involved in buying, selling and insuring real estate, including companies that provide title insurance, settlement services, real property records and images, valuation products and services, home warranty products, banking and investment advisory services.

These databases are searchable, provide information from documents that was previously difficult to obtain and improve data integrity to meet the needs of their customers. Similarly, a well-designed copyright ownership database will be the foundation of a music licensing system that requires constant data updates and exchanges among copyright owners, administrators and licensees. However, we believe any attempt to mandate the participation in and use of a centralized governmental database is bound to collapse under its own weight.

The Copyright Office should have the authority to offer additional fee-for-service options, including for high speed, high volume access to its databases. However, authority to change any fee schedule for registration or recordation (and other services) should ultimately rest with Congress in order to protect copyright claimants against overly burdensome fees for registering their works.

Small Claims

We support establishing a voluntary small claims process to handle low value infringement cases that does not impact the current legal remedies available to copyright owners and whose rulings are non-precedential. We ask that Congress authorize the Register to promote an efficient system for adjudicating small claims that does not create law or policy best left to Congress and Article III courts. Given the experimental nature of a small claims court, we believe it would be useful to establish a pilot program with jurisdiction over cases involving a limited universe of works, such as visual arts, whose creators have been the main drivers of creating such a forum.

Thank you for your consideration and we look forward to working with the Committee to ensure that creators are able to earn a fair living and to help ensure a well-functioning Copyright Office. Please do not hesitate to contact me if we can provide additional information.

Sincerely,



John H. Josephson

Chairman & CEO