



December 14, 2011

Chairman Lamar Smith
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Ranking Member John Conyers
House Committee on the Judiciary
B-351 Rayburn House Office Building
Washington, D.C. 20515

Re: Manager's Amendment to Stop Online Piracy Act, H.R. 3261

Dear Chairman Smith and Ranking Member Conyers:

I write on behalf the Library Copyright Alliance (LCA), consisting of three major library associations—the American Library Association, the Association of College and Research Libraries, and the Association of Research Libraries (ARL)—that collectively represent over 139,000 libraries in the United States employing over 350,000 librarians and other personnel. While we appreciate that the Manager's Amendment to the Stop Online Piracy Act (H.R. 3261) attempts to respond to some of the concerns we and others have raised in connection to Title I, we are disappointed that the Manager's Amendment did not address the problems with treatment of streaming video that we identified in our November 8, 2011, letter (attached). In brief, the letter raised concerns that the treatment of streaming video in Title II could leave libraries open to threats of felony prosecution due to ambiguity in the "willfulness" standard, among other things.

In a later document, submitted in collaboration with other higher education organizations, the Association of Research Libraries (ARL) provided language that would have resolved this concern. Specifically, ARL suggested a change to the rule of construction in section 201(c) of Title II that would have codified the interpretation of "willful" that has been followed by the leading cases on willful copyright infringement. That interpretation—"voluntary intentional violation of a known legal duty"—is the same interpretation endorsed by Register of Copyrights Maria Pallante in her testimony before this committee, and favored by Nimmer in his treatise. Nevertheless, the Manager's Amendment retains the old language.

We request that section 201(c) be amended as we suggest at Thursday's markup. Thank you for considering this request. We look forward to working with you and your staff on this legislation as it proceeds.

Respectfully,

A handwritten signature in cursive script, appearing to read 'Brandon Butler'.

Brandon Butler
ARL Director of Public Policy Initiatives, on behalf of LCA