

September 1, 2020

Chairman Thom Tillis  
Senate Judiciary Subcommittee on Intellectual Property  
113 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator Tillis:

Thank you for leading successful discussions to forge consensus legislation to close the “streaming loophole.”

Your thoughtful, determined leadership has produced results: a narrow, targeted, two-page proposal that would strengthen and protect the streaming ecosystem for the benefit of consumers, creators, and innovative digital services. Everyone with a stake in the modern world of streaming is indebted to you and your staff for this effort to address the economic and consumer harms streaming piracy represents.

Closing the streaming loophole is long overdue to ensure that large-scale perpetrators of all forms of digital piracy may face meaningful criminal penalties in appropriate circumstances. The Intellectual Property Enforcement Coordinator, the Justice Department, and the Copyright Office have been urging Congress to modernize federal law in this way for over a decade, under different leaders and through administrations of both parties. And Congress has for years been holding hearings and examining the costs of streaming piracy to consumers, creators, and innovation.

Meanwhile, as streaming has overtaken downloading as the dominant way culture is consumed online, the toll of streaming piracy has exploded. One recent study found that pirate subscription streaming IPTV services – representing just one aspect of the streaming piracy ecosystem – generates over \$1 billion each year for the perpetrators in the U.S. alone, and exposes consumers to malware and other harms.<sup>1</sup> Another study found that, overall, digital video piracy costs the U.S. economy at least \$29.2 billion annually.<sup>2</sup>

To solve this problem while protecting free speech and expression online, your office led a broad and diverse group of stakeholders through a comprehensive and transparent months'-long negotiating process. Diverse interests representing internet users, technology companies, broadcasters, internet service providers, studios, creators, sports leagues, and others all participated in an extraordinary and substantive dialogue – exactly the kind of good-faith negotiation that is the hallmark of the democratic process.

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<sup>1</sup> Digital Citizens Alliance, Money for Nothing: The Billion-Dollar Pirate Subscription IPTV Business, *available at* <https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA-Money-for-Nothing-Report.pdf>

<sup>2</sup> Global Innovation Policy Center, Impacts of Digital Piracy on the U.S. Economy, *available at* <https://www.theglobalipcenter.com/report/digital-video-piracy/>.

The result is consensus legislation that we believe would provide effective remedies to ensure that willful, large-scale commercial streaming piracy, like other forms of industrial-scale piracy, can be prosecuted as a felony. That change is vital, and will have a significant impact benefiting creators, consumers, and innovators alike by ensuring that major streaming-piracy operations cannot continue to evade federal criminal prosecution.

Thanks to the participation of a diverse array of stakeholders and perspectives, this two-page proposal has a precise focus, reaching only willful, large-scale commercial piracy operations and guaranteeing that individual internet users, non-commercial actors, and legitimate businesses are unambiguously placed beyond the scope of the bill. Indeed, this proposal would only provide law enforcement with updated and appropriate tools to target criminals engaged in commercial streaming piracy with felony prosecutions – just as it does now for forms of piracy involving illegal downloading and distribution.

As you know, there is a mistaken notion that the interests of the creative community and internet stakeholders invariably conflict. That was never true, but where there was tension in the past, the streaming economy is fast becoming the bridge that unites those interests – both commercially and politically. Closing the streaming loophole will reinforce this promising trend, helping innovators continue to experiment with new and exciting ways for audiences to find and enjoy the content they love – while at the same time helping creators continue to inspire and entertain the world.

This agreement is proof of that greater truth – that we all do our best when we work to find common ground.

Thank you for convening this extraordinary and successful consensus-building effort. We look forward to assisting in any way we can to enact the resulting proposal into law.

Sincerely,

American Association of Independent Music  
Copyright Alliance  
CreativeFuture  
Department for Professional Employees, AFL-CIO  
Directors Guild of America  
International Alliance of Theatrical Stage Employees (IATSE)  
Independent Film & Television Alliance  
Motion Picture Association  
National Association of Broadcasters  
NCTA – The Internet & Television Association  
Recording Industry Association of America  
Screen Actors Guild and the American Federation of Television and Radio Artists (SAG-AFTRA)  
U.S. Chamber of Commerce  
USTelecom – The Broadband Association