

Copyright modernization: Digital upgrade or power grab?

The House Judiciary Committee has made little progress on copyright reform since it began a review of the Copyright Act of 1976 over three years ago. For many stakeholders, this is good news because amendments could weaken user rights to copyright. Modernization of the Copyright Office—upgrading the office’s digital technologies—is one area of agreement, but some want to add provisions that have nothing to do with a tech upgrade. In fact, a tech upgrade would not require legislation. Along with a bigger budget, the starting point for modernization should be recommendations made by the Government Accounting Office (GAO) in a report released back in March 2015: “1) develop key information to support proposed initiatives for improving its IT environment and submit them to the Library’s IT investment review board for review, and 2) develop an IT strategic plan that is aligned with the Library’s.”

GAO describes in detail the IT deficiencies in the Copyright Office, and users tend to agree. Stakeholders rightly expect that the office’s mission-critical services—including basic registration—should operate like other digital commerce, in real time, like ordering socks from Land’s End. But based on all accounts, making any headway to improve IT in the Copyright Office has been more than difficult.

The House Judiciary Committee has proposed legislation that includes provisions and policy changes favored by rights holders and does not address IT

problems. The Digital Economy (Code) Act (H. R.4241) drafted in the last Congress would strengthen the role of the Register of Copyrights by making the Copyright Office an independent agency, no longer reporting to the Library of Congress, and changing the title of the register to *director*, and adding more policy responsibilities. The director would no longer be appointed by the Librarian of Congress but would be appointed by the president from a list of recommendations proposed by the Senate. Moreover, the Copyright Office would have decision-making authority over exemptions to the Digital Millennium Copyright Act 1201 rulemaking process.

These changes could bolster the influence that rights holders already have over copyright policy and statute. It is possible that we would see copyright legislation that focuses on changes to Section 108 and orphan works legislation, attempts to curb fair use and increase enforcement, and to impede ratification of the Marrakesh Treaty, which would support access to people who are blind or otherwise print disabled. Legislation like H. R. 4241 likely will be introduced in the new Congress. The library community will need to define our position in response.

So, yes to IT modernization. We support the funding necessary to get the Copyright Office back on track. And with the Library of Congress—home to the Copyright Office—also woefully in need of a tech upgrade, it’s time to closely collaborate with the new Librarian of Congress. Unlike her predecessor, Carla Hayden well understands modern library digital infrastructures and technologies. For the first time in many years, there is hope that modernization of the Library of Congress and the Copyright Office can truly begin and succeed. *✍*

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