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**Fighting Online Piracy Will Boost American Economy and Jobs**

by

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Copyrighted works increasingly are a potent source for economic activity and jobs in America. But an April 2021 report by the U.S. Trade Representative and other studies by independent market analysts show that American-owned copyrighted works, such as sound recordings, movies, and TV, are falling prey to global online piracy. The facts and figures regarding the extent of piracy, compiled especially for this *Perspectives*, and recited below, are frankly shocking. Congress and the Biden Administration need to continue to fight online piracy in foreign nations. And U.S. law should be updated to require major online platforms to prevent serial re-postings of copyright-infringing on their websites.

Securing copyrights is crucial to reviving the U.S. economy and creating American jobs. A [December 2020 report](#) by the International Intellectual Property Alliance (IIPA) spotlights the tremendous boon to our nation's economy by "core copyright industries" whose prime purpose is to create, produce, distribute, or exhibit copyrighted content. According to IIPA's report, "core copyright industries" added over \$1.5 trillion in value in U.S. gross domestic product (GDP) in 2019. That same year, "core copyright industries" employed 5.7 million U.S. workers, or 4.46% of the nation's private workforce.

The beneficial impact of copyrights extends even wider across the U.S. economy. According to the IIPA report, over \$2.5 trillion in GDP, or nearly 12% of the economy, was contributed by "total copyright industries" – a broader category that includes industries partly focused or dependent on copyrights. In 2019, "total copyright industries" employed 11.7 million workers or over 9% of the U.S. private workforce. Significantly: "During the period 2016-2019, the core copyright industries grew at an aggregate annual rate of 5.87%. The average annual growth rate of the entire U.S. economy over the same period was only 2.48%."

Securing online copyright protections is increasingly important for "core copyright industries" in the U.S. as more and more of their revenues shift to Internet-based distribution. For example, the Recording Industry Association of America (RIAA) [reports](#) that music sound recording revenues from digital streaming increased to \$10.1 billion compared to \$8.9 billion in 2019 and \$7.3B in 2018. That 2020 figure comprised 83% of U.S. sound recording revenues for that year, with digital download purchases comprising an additional 6% of revenues.

Additionally, the Motion Picture Association (MPA) [reports](#) U.S. theatrical and home/mobile entertainment revenues totaled \$32.2 billion in 2020, an 11% decrease from a year prior on account of COVID-related lockdowns. The 80% decrease in U.S. box office revenues was partially offset by a 33% revenue increase in the U.S. digital home/mobile entertainment market. An April 2021 report by MPA cites Comscore's estimate that the pay TV subscription market (excluding online video) generated \$102 billion in the U.S. in 2020, and that online video market grew to \$24.7 billion, a 35% increase from the year before.

Despite these impressive figures, online piracy of American copyrighted content in foreign nations is a major problem. The U.S. Trade Representative's [2021 "Special 301" report](#) identified "high levels of online and broadcast piracy" in many foreign nations as a serious concern. The Trade Representative's report states that "Argentina, Canada, Chile, China, Colombia, the Dominican Republic, India, Mexico, the Netherlands, Romania, Russia, Switzerland, Thailand, Ukraine, and Vietnam have high levels of online piracy and lack effective enforcement." And its report recounts now widely-familiar methods of online piracy. A dominant method of online music piracy is "stream ripping" of copyrighted music from licensed streaming sites. And a widespread method of online video piracy involves illicit Internet Protocol TV (IPTV) services that unlawfully transmit video signals and channels with copyrighted content. These unlawful IPTV services use web portals and third-party Kodi apps designed for playing pirated content on video devices.

Although IIPA [reports](#) that U.S. core copyright industries generated \$218.8 billion in revenues from foreign sales and exports in 2019, piracy in foreign countries continues to undercut the financial returns for American copyright owners. The Trade Representative's [report](#) cites the Global IP Center's June 2019 estimate that global online video piracy hits the U.S. with revenue losses of least \$29 billion and as much as \$71 billion every year – truly shocking amounts.

And online piracy also is a big problem in the U.S. According to [MUSO](#), an anti-piracy and market analytics data company, the number of visits to online piracy sites in the U.S. in 2020 was 12.5 billion – more than Russia at 8.3 billion, China at 6.9 billion, and India 5.6 billion, or any other nation it measured. And according to a [February 2021 survey](#) published by the Digital

Citizens Alliance: "One in 5 Americans (20%) said they visit pirate websites, while 1 in 10 (10%) said they have a pirate device with apps in their home."

Aside from use of stream ripping websites or illicit IPTV services, high volumes of copyright-infringing activity in the U.S. take place on social media sites such as Facebook, Twitter, and YouTube. Users of these popular platforms routinely upload infringing video and music content, drawing high numbers of viewers and generating significant ad revenues for the platforms. Yet Section 512 of the Digital Millennium Copyright Act of 1998 is too outdated to adequately address today's problem of mass user uploads on major online platforms. Section 512, as interpreted by courts, gives overbroad immunity to online platforms for copyright infringement. As a result, online platforms lack strong incentive to make sure that infringing content that initially is removed from their sites is not quickly reposted. Individual creative artists and smaller companies usually do not have enough time or money to scan for unauthorized postings of their work and send repeat notices to the online platform when their work swiftly pops back up in new places on the same website.

Congress and the Biden Administration need to step up efforts to combat online piracy of American copyrighted content in foreign nations and at home. The U.S. should insist on stronger copyright provisions in trade agreements, and it should proactively seek enforcement of those provisions when foreign countries fail to adequately protect copyrights. And the U.S. should not seek to include outdated and under-protective DMCA-like language in any future trade agreements.

U.S. law enforcement should be active in prosecuting mass-scale online piracy operations for criminal copyright violations. Private civil lawsuits are usually inadequate at stopping sophisticated copyright piracy outfits that seek to evade legal processes. Congress ought to authorize federal law enforcement to seek court approval for wiretaps in cases of alleged copyright crimes.

Additionally, Congress should modernize U.S. civil copyright laws to better prevent online infringements taking place within our borders. Specifically, Congress should revise the DMCA to establish a "notice-and-stay down" system that would more strongly protect copyrights in an era of high-speed broadband and mass volume social media user uploads.

Under a "notice-and-stay down" system, an online platform that receives a takedown notice for a specific infringing song, movie, or TV show on its site should be required – as a condition for receiving immunity from infringement claims – to expeditiously remove future postings of the same infringing content. Establishing a "stay down" requirement for receiving immunity would give online platforms needed incentive to more promptly remove repeated re-postings of infringing content. To this end, Congress also ought to consider – as a condition for receiving immunity – requiring major online platforms to regularly use an automated content recognition service for purposes of identifying and preventing new uploads of infringing copies of sound recordings, movies, and TV shows.

In sum, to help revive the U.S. economy and promote jobs in copyright industries, Congress and the Administration should strengthen and enforce protections for Americans' copyrights overseas and here at home.

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### **Further Readings**

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Randolph J. May and Seth L. Cooper, "[Congress Must Modernize Copyright Law to Curb Mass Online Theft](#)," *Perspectives from FSF Scholars*, Vol. 15, No. 58 (November 5, 2020).

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