

Before the  
**United States Copyright Office**  
Washington, D.C.

*In re:*

Section 512 Study:  
Notice and Request for Public Comment

May 9, 2019  
Docket No. USCO-2015-7

## UPDATE TO COMMENTS OF INTERNET ASSOCIATION

Internet Association appreciates the opportunity to update its April 2016 comments<sup>1</sup> on the Copyright Office's study of Section 512 of the Copyright Act. The U.S. copyright system has a strong and innovation-oriented copyright framework that benefits consumers, protects creators' rights, and enables innovation – including through the safe harbors and limitations and exceptions in the Digital Millennium Copyright Act (DMCA).

Internet Association (IA) represents over 40 of the world's leading internet companies.<sup>2</sup> IA is the only trade association that exclusively represents leading global internet companies on matters of public policy. IA's mission is to foster innovation, promote economic growth, and empower people through the free and open internet. IA member companies are leading licensees, distributors and creators of copyrighted works, as well as platforms that allow people to distribute and share the copyrighted works they have created.

IA filed comments with the U.S. Copyright Office (the Office) in 2016 in response to its request for comments and participated in the public round tables held by the Office in the same year. IA has consistently held the position that Section 512 creates a balanced system that supports diverse stakeholders, providing rights holders, creators, internet companies, technology industries, and users the tools necessary to grow a robust online ecosystem. The DMCA safe harbors have achieved the goal<sup>3</sup> established by stakeholders and policy makers: the internet has survived and thrived, benefiting creators, the public, and internet companies. The growth of

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<sup>1</sup> "Comments on USCO Section 512 Study." Internet Association, 1 Apr. 2016, [internetassociation.org/wp-content/uploads/2016/03/Internet-Association-Comments-on-Section-512-Study-4-1-16.pdf](http://internetassociation.org/wp-content/uploads/2016/03/Internet-Association-Comments-on-Section-512-Study-4-1-16.pdf).

<sup>2</sup> "Our Members." Internet Association, [internetassociation.org/our-members](http://internetassociation.org/our-members).

<sup>3</sup> The legislative history for the DMCA indicates that the bill was designed to "facilitate the robust development and world-wide expansion of electronic commerce, communications, research, development, and education in the digital age".

"Senate Report 105-190 - The Digital Millennium Copyright Act of 1998." Congress.gov, 11 May 1998, [www.congress.gov/congressional-report/105th-congress/senate-report/190/1](http://www.congress.gov/congressional-report/105th-congress/senate-report/190/1).

the content community economy continues to outpace that of the overall economy,<sup>4</sup> as collaboration between the internet and content increases. The safe harbors allow for flexibility, ensuring that the efficacy of the system and collaborative efforts across different private industries can flourish across both time and technical evolution.

While IA's position on the merits of Section 512 has not changed, the evolution of the landscape over the last three years necessitates an update to IA's previously filed comments. We applaud the Office for resisting the temptation to look backwards at the problems of previous decades and focusing instead on the latest developments in the copyright world, including the increased collaboration between our companies and creators. This update to IA's comments provides insight into those developments.

Over the past three years, internet companies have revolutionized their relationship with the creative community, and these sectors are partnering in ground-breaking ways. They have expanded user access to content through licensing and distribution deals as well as funding the production of content and collaborating with the creative community. IA members protect content better than ever before, responding to more takedown requests and investing in voluntary protective measures that exceed the reasonable requirements of the law. They launch new markets for creators and connect creators with consumers in groundbreaking ways, improving relationships, increasing engagement, informing artists, and driving economic growth. As the interests of these stakeholders increasingly overlap, maintaining the robust protections and certainty of Section 512 is even more critical.

## Internet Companies Protect Copyrighted Works

IA member companies maintain robust policies that rely on the DMCA to protect copyrighted works and take action when they are notified of infringement. IA member companies publish clear policies to deal with repeat infringers and dedicate significant resources to respond to potential breaches of their copyright policies. As the digital marketplace grows, the number of takedown requests companies see continues to rise. IA member companies respond responsibly and reliably, demonstrating the effectiveness of the DMCA.<sup>5</sup>

Internet companies are increasingly responsive to takedown notices. From 2012 to 2017, Twitter saw over 1,200% growth in the number of takedown notices received.<sup>6</sup> Similarly, Reddit

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<sup>4</sup> "Arts and Cultural Production Satellite Account, U.S. and States 2016." U.S. Bureau of Economic Analysis, 19 Mar. 2019, [www.bea.gov/news/2019/arts-and-cultural-production-satellite-account-us-and-states-2016](http://www.bea.gov/news/2019/arts-and-cultural-production-satellite-account-us-and-states-2016).

<sup>5</sup> DMCA takedown notices are a poor barometer for measuring piracy online. Urban, Jennifer M. and Karaganis, Joe and Schofield, Brianna. "Notice and Takedown in Everyday Practice." UC Berkeley Public Law Research Paper No. 2755628, 22 Mar. 2017, [ssrn.com/abstract=2755628](https://ssrn.com/abstract=2755628).

<sup>6</sup> "Transparency Report - Copyright Notices." Twitter, [transparency.twitter.com/en/copyright-notices.html#copyright-notices-jul-dec-2017](https://transparency.twitter.com/en/copyright-notices.html#copyright-notices-jul-dec-2017).

saw a 725% increase in DMCA notices from 2016 to 2018.<sup>7</sup> Between the first and second halves of 2018, LinkedIn experienced a 97% increase in takedown notices.<sup>8</sup> Facebook received 46% more takedown notices in the first half of 2018 compared to the first half of 2017.<sup>9</sup> Instagram's takedown notices doubled over the same period.<sup>10</sup> Compared to the previous year, Etsy saw a 70% increase in takedowns in 2016<sup>11</sup> and a 2% increase in takedowns in 2017.<sup>12</sup>

eBay's Verified Rights Owner (VeRO) program enables over 40,000 rights owners globally to report alleged intellectual property infringement, including possible counterfeits.<sup>13</sup> Any third party can report unlawful activity to the eBay customer support team through dedicated links.

Search engines are actively working to decrease the footprint of sites that facilitate copyright infringement and increase the visibility of legitimate alternatives as well. The DMCA notice and takedown process continues to incentivize collaboration between search engines and copyright holders. In 2017, Google Search received requests to remove 882 million URLs and removed 95% of webpages identified in requests.<sup>14</sup> They also factor in the number of valid copyright removal notices for any given site when ranking search results. Sites for which Google has received a large number of valid removal notices appear much lower in search results. As a result, demoted sites lose an average of 89% of their traffic from Google Search, contributing to the 9% decrease in the number of URLs listed in takedown notices from 2016 to 2017.<sup>15</sup> Google also allows large copyright owners who consistently submit accurate URL takedown requests to do so in bulk through the company's Trusted Content Removal Program.<sup>16</sup> Microsoft Bing has received 95.5 million DMCA-compliant copyright removal requests between 2015 and 2018, during which requests increased by over 2,500%, and has removed 99% of the reported content.<sup>17</sup> These search engines are responsive, responsible partners in the fight against copyright infringement.

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<sup>7</sup> "Transparency Report 2018." Reddit, [www.redditinc.com/policies/transparency-report-2018](http://www.redditinc.com/policies/transparency-report-2018).

<sup>8</sup> "Our Transparency Report." LinkedIn, 18 Apr. 2019, [www.linkedin.com/legal/transparency#content-removal-requests](http://www.linkedin.com/legal/transparency#content-removal-requests).

<sup>9</sup> "Facebook Transparency Report - Intellectual Property." Facebook, [transparency.facebook.com/intellectual-property/jan-jun-2018](https://transparency.facebook.com/intellectual-property/jan-jun-2018).

<sup>10</sup> Ibid.

<sup>11</sup> "Response to SFC Counterfeit Investigation." Internet Association, 29 Jun. 2018, [internetassociation.org/wp-content/uploads/2018/06/IA\\_Letter\\_Response-to-SFC-Counterfeit-Investigation\\_June-29-2018.pdf](http://internetassociation.org/wp-content/uploads/2018/06/IA_Letter_Response-to-SFC-Counterfeit-Investigation_June-29-2018.pdf), p.2.

<sup>12</sup> Kallberg, Jess. "Etsy Releases 2017 Transparency Report." Etsy Impact, 21 Aug. 2018, [medium.com/etsy-impact/etsy-releases-2017-transparency-report-9f32aa4604b2](https://medium.com/etsy-impact/etsy-releases-2017-transparency-report-9f32aa4604b2).

<sup>13</sup> Perez, Sarah. "eBay Takes on The RealReal and Other Fashion Resellers with Launch of Authentication Program." TechCrunch, 16 Oct. 2017, [techcrunch.com/2017/10/16/ebay-takes-on-the-realreal-and-other-fashion-resellers-with-launch-of-authentication-program/](http://techcrunch.com/2017/10/16/ebay-takes-on-the-realreal-and-other-fashion-resellers-with-launch-of-authentication-program/).

<sup>14</sup> "How Google Fights Piracy." Google, Nov. 2018, [www.blog.google/documents/25/GO806\\_Google\\_FightsPiracy\\_eReader\\_final.pdf](http://www.blog.google/documents/25/GO806_Google_FightsPiracy_eReader_final.pdf), p.14.

<sup>15</sup> Ibid, p.39.

<sup>16</sup> Ibid, p.16.

<sup>17</sup> "Content Removal Requests report." Microsoft, [www.microsoft.com/en-us/corporate-responsibility/crrr](http://www.microsoft.com/en-us/corporate-responsibility/crrr).

Takedown efforts and innovative voluntary measures are possible because of the DMCA's safe harbors, which provide legal certainty and reduce the risks associated with content removal. This certainty provides companies the flexibility to determine whether their circumstances and business models can provide support to creators that goes above and beyond the reasonable legal requirements. Such support may include developing new tools and continually updated technologies for identifying infringing content, including technology to match music, and video. Indeed, many companies also proactively ban products or services aimed primarily at copyright infringement from their search indices and advertising networks.

Google has invested over \$100 million into its Content ID system, a copyright management system that gives rights holders the tools they need to manage their works on YouTube. Rights holders can be automatically notified of user-uploaded videos that contain their creative work and can choose whether to block it, track the viewership data, or monetize the video. In 2017, Content ID handled 98% of YouTube's copyright claims, over 90% of which resulted in monetization for the copyright owner.<sup>18</sup> In fact, YouTube has now paid out over \$3 billion to rights holders who have monetized use of their content in other videos through Content ID.<sup>19</sup>

Google ejects infringing sites from its advertising services and with Microsoft and Facebook promotes industry-wide advertising standards through groups like the Coalition for Better Ads.<sup>20</sup> Since 2012, Google has terminated over 13,000 AdSense accounts and ejected more than 100,000 sites from the AdSense program for violations of its policy on copyrighted material.<sup>21</sup> In 2017, Google rejected more than 10 million ads suspected of copyright infringement.<sup>22</sup>

Facebook's Rights Manager is a tool that identifies live and recorded videos on Facebook and Instagram that match rights holders' copyrighted content. Participating rights holders can upload reference files into the tool and, when a match is detected between the audio and/or video of a user upload in a reference file, rights holders decide what action they want to take on the content.<sup>23</sup> Possible actions can include blocking, claiming earnings, monitoring, and reporting content for removal. The Rights Manager API enables users to integrate existing content management workflows and to easily upload and manage large libraries.<sup>24</sup> Facebook provides its Commerce & Ads IP Tool, which allows rights holders to easily search for advertisements, Marketplace posts, and group sale posts that include their word trademark and report that content individually or in bulk for counterfeit, trademark, or copyright reasons to Facebook.<sup>25</sup>

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<sup>18</sup> "How Google Fights Piracy." Google, Nov. 2018, [www.blog.google/documents/25/GO806\\_Google\\_FightsPiracy\\_eReader\\_final.pdf](http://www.blog.google/documents/25/GO806_Google_FightsPiracy_eReader_final.pdf), p.13.

<sup>19</sup> "Copyright Match Tool." YouTube Help, [support.google.com/youtube/answer/7648743](http://support.google.com/youtube/answer/7648743).

<sup>20</sup> "Members." Coalition for Better Ads, [www.betterads.org/members](http://www.betterads.org/members).

<sup>21</sup> *Ibid*, p.58.

<sup>22</sup> *Ibid*, p.14.

<sup>23</sup> "Facebook & IP Protection." Facebook, Dec. 2018, [fbnewsroomus.files.wordpress.com/2018/12/facebook-ip-protection.pdf](http://fbnewsroomus.files.wordpress.com/2018/12/facebook-ip-protection.pdf), p.3.

<sup>24</sup> "Rights Manager." Facebook, [www.facebook.com/facebookmedia/solutions/rights-manager](http://www.facebook.com/facebookmedia/solutions/rights-manager).

<sup>25</sup> "What tools does Facebook provide to help me enforce my intellectual property rights in advertisements and sale posts?" Facebook Help Center, [www.facebook.com/help/835772913244854](http://www.facebook.com/help/835772913244854).

Facebook and Twitch also use Audible Magic, a third-party service that will block uploaded videos when an audio match is detected based on content provided by rights holders.<sup>26,27</sup>

In 2017, Amazon launched Brand Registry, a service that gives rights holders advanced tools to protect their brands. Brand Registry offers brands powerful text- and image-based search capabilities and automated protections that use machine learning to predict and prevent future infringement. Amazon has more than 130,000 brands<sup>28</sup> around the world registered in Brand Registry, and on average, they are finding and reporting 99% fewer suspected infringements than before the launch of Brand Registry. Amazon investigates and takes action on more than 95% of all notices of potential infringement received from brands in Brand Registry within 24 hours.<sup>29</sup>

In their efforts to combat infringement, internet companies have created close relationships with law enforcement, including active engagement with U.S. Customs and Border Protection, the National Intellectual Property Rights Center, under the Department of Homeland Security, and other federal and state enforcement agencies. Companies regularly report misconduct and help support ongoing investigations, many with dedicated teams. Companies have proactively created training programs to ensure that law enforcement officials understand how the platforms work and to provide information about evolving investigative techniques on the web and other emerging trends.<sup>30</sup>

These services exceed the requirements of the law in their efforts to collaborate with rights holders to prevent and address infringement. Such efforts require substantial investment and must be tailored to individual technologies and business models. Making such actions mandatory would create significant burdens on smaller entities and on services that are not frequently notified of possible infringement. Mandatory use of matching technology, for example, would establish barriers to entry and limit innovation in the platforms, delivery methods, and services future tech companies could provide. Companies that willingly take on the task of exceeding the legal requirements at their own expense should be applauded without the threat that their voluntary efforts will be considered evidence for more onerous legal requirements.

In addition to proactive efforts to combat infringement, IA member companies maintain and implement policies to deal with repeat infringers.<sup>31,32,33,34,35,36,37,38,39,40,41</sup> The flexibility of the DMCA

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<sup>26</sup> “What tools does Facebook provide to help me protect my intellectual property in my videos?” Facebook Help Center, [www.facebook.com/help/348831205149904](http://www.facebook.com/help/348831205149904).

<sup>27</sup> Baker, Elizabeth. “Important: Changes To Audio In VODS.” Twitch, 6 Aug. 2014, [blog.twitch.tv/important-changes-to-audio-in-vods-35939b33ee2a](http://blog.twitch.tv/important-changes-to-audio-in-vods-35939b33ee2a).

<sup>28</sup> “Amazon Brand Registry - Progress Report.” Amazon Brand Services, [brandservices.amazon.com/progressreport](http://brandservices.amazon.com/progressreport).

<sup>29</sup> Ibid.

<sup>30</sup> “Response to SFC Counterfeit Investigation.” Internet Association, 29 Jun. 2018, [internetassociation.org/wp-content/uploads/2018/06/IA\\_Letter\\_Response-to-SFC-Counterfeit-Investigation\\_June-29-2018.pdf](http://internetassociation.org/wp-content/uploads/2018/06/IA_Letter_Response-to-SFC-Counterfeit-Investigation_June-29-2018.pdf), p.2

<sup>31</sup> “DMCA Policy for Customers of Our Customers.” Google Cloud, [cloud.google.com/storage/docs/dmca](http://cloud.google.com/storage/docs/dmca).

allows companies with varying business models to develop individualized repeat infringer policies that comply with the law, reduce infringement, and meet the specific challenges of their businesses. Removing the current flexibilities of the DMCA would risk reducing future innovation in an evolving ecosystem that is constantly redefining the borders between content creators, distribution networks, retail stores, and internet companies. The Office should keep this evolution in mind as it finalizes its report, focusing on current collaboration rather than yesterday's challenges.

## Internet Companies Support Content Creation

The internet empowers billions of people to create and interact with more content than ever before through a variety of platforms and services. IA members are creators who produce, distribute, and stream original and licensed content, making the internet the preferred medium for video and music. On average, adults in the U.S. spend over an hour watching video on digital devices every day, with video consisting of 73% of internet traffic in 2016, estimated to expand to 82% by 2021.<sup>42</sup> Americans are streaming music more than ever before, reaching a record 900 billion streams<sup>43</sup> and nearly half of all recorded music revenue in 2018.<sup>44</sup> This unprecedented level of access has fueled record levels of content production. For example, the number of scripted television shows in the U.S. has more than doubled since 2010 and has

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<sup>32</sup> "Terms of Service." YouTube, [www.youtube.com/static?template=terms](http://www.youtube.com/static?template=terms).

<sup>33</sup> "Copyright policy." Twitter, [help.twitter.com/en/rules-and-policies/copyright-policy](https://help.twitter.com/en/rules-and-policies/copyright-policy).

<sup>34</sup> "Digital Millennium Copyright Act Notification Guidelines." Twitch, 27 Mar. 2019, [www.twitch.tv/p/legal/dmca-guidelines](http://www.twitch.tv/p/legal/dmca-guidelines).

<sup>35</sup> "What happens if I repeatedly have content I've posted removed for violating someone else's intellectual property (copyright or trademark) rights?" Facebook Help Center, [www.facebook.com/help/350712395302528](https://www.facebook.com/help/350712395302528).

<sup>36</sup> "What happens if I repeatedly have content I've posted removed for violating someone else's intellectual property (copyright or trademark) rights?" Instagram Help Center, [help.instagram.com/1586774981367195](https://help.instagram.com/1586774981367195).

<sup>37</sup> "Terms of Service." Snap, 18 Feb. 2019, [www.snap.com/en-US/terms](http://www.snap.com/en-US/terms).

<sup>38</sup> "Terms of Service." Dropbox, 25 May 2018, [www.dropbox.com/terms](http://www.dropbox.com/terms).

<sup>39</sup> "Copyright on Pinterest." Pinterest, [policy.pinterest.com/en/copyright](https://policy.pinterest.com/en/copyright).

<sup>40</sup> "What is Reddit's policy on repeat copyright infringement?" Reddit, [www.reddithelp.com/en/categories/rules-reporting/copyright-help-center/what-reddits-policy-repeat-copyright-infringement](https://www.reddithelp.com/en/categories/rules-reporting/copyright-help-center/what-reddits-policy-repeat-copyright-infringement).

<sup>41</sup> "Amazon Intellectual Property Policy." Amazon, [sellercentral.amazon.com/gp/help/external/201361070](https://sellercentral.amazon.com/gp/help/external/201361070).

<sup>42</sup> "Video Will Account for an Overwhelming Majority of Internet Traffic by 2021." Business Insider, 12 Jun. 2017, [www.businessinsider.com/heres-how-much-ip-traffic-will-be-video-by-2021-2017-6](http://www.businessinsider.com/heres-how-much-ip-traffic-will-be-video-by-2021-2017-6).

<sup>43</sup> "Total Album Equivalent Consumption in the U.S. Increased 23% in 2018." Nielsen, 1 Aug. 2019, [www.nielsen.com/us/en/insights/news/2019/total-album-equivalent-consumption-in-the-us-increased-23-percent-in-2018.html](http://www.nielsen.com/us/en/insights/news/2019/total-album-equivalent-consumption-in-the-us-increased-23-percent-in-2018.html).

<sup>44</sup> "IFPI Global Music Report 2019." International Federation of the Phonographic Industry, 2 Apr. 2019, [www.ifpi.org/news/IFPI-GLOBAL-MUSIC-REPORT-2019](http://www.ifpi.org/news/IFPI-GLOBAL-MUSIC-REPORT-2019).

increased by 17% since 2015.<sup>45</sup> As investors in content, internet companies are increasingly interested in ensuring a balanced copyright framework. The DMCA effectively balances the equities of rights holders, the freedom of the internet, and the public interest and creates incentives to increase access to and variety of content. Effortless access and expanded options mean greater choice for consumers.

Much of the increase in programming has been driven by tech companies investing in original content.<sup>46</sup> With investments that rival traditional media companies, IA members are creating movies, TV shows, music, blogs, and more. IA members have produced top-rated content leading to Oscar,<sup>47</sup> Emmy,<sup>48</sup> Grammy,<sup>49</sup> and Golden Globe<sup>50</sup> wins. Amazon, Snap,<sup>51</sup> YouTube,<sup>52</sup> Facebook Watch,<sup>53</sup> and Twitter<sup>54</sup> have all invested in original programming. These endeavors invest in local economies, creating jobs for writers, directors, cast, and crew and providing affordable options for American viewers.

There is no question that individual creators collectively represent a thriving and growing economic force. In addition to investing in original content directly, IA companies provide services and tools that an increasing number of people rely on to market and monetize their

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<sup>45</sup> "Number of Scripted TV Series in the U.S. 2018." Statista, [www.statista.com/statistics/444870/scripted-primetime-tv-series-number-usa](http://www.statista.com/statistics/444870/scripted-primetime-tv-series-number-usa).

<sup>46</sup> Molla, Rani. "Netflix and Hulu Go in for Comedies While Amazon Sticks to Drama: A Look at the Original Content Boom." Recode, 28 Sep. 2018, [www.recode.net/2018/9/28/17906772/netflix-hulu-amazon-original-content-streaming-new-shows-facebook-apple](http://www.recode.net/2018/9/28/17906772/netflix-hulu-amazon-original-content-streaming-new-shows-facebook-apple).

<sup>47</sup> Weise, Elizabeth. "Amazon, Netflix Elbow into Oscars with 4 Wins." USA Today, 27 Feb. 2017, [www.usatoday.com/story/tech/talkingtech/2017/02/27/amazon-netflix-oscars-manchester-by-the-sea-the-salesman-streaming-service-jeff-bezos/98480134](http://www.usatoday.com/story/tech/talkingtech/2017/02/27/amazon-netflix-oscars-manchester-by-the-sea-the-salesman-streaming-service-jeff-bezos/98480134).

<sup>48</sup> Bloom, David. "Streaming Giants Rule The 2018 Emmys As Netflix, Amazon Grab The Gold." Forbes, 18 Sep. 2018, [www.forbes.com/sites/dbloom/2018/09/18/netflix-amazon-emmy-wins-2018](http://www.forbes.com/sites/dbloom/2018/09/18/netflix-amazon-emmy-wins-2018).

<sup>49</sup> "Amazon Original 'Feel What U Feel' by Lisa Loeb Wins Grammy for Best Children's Album." Niagara Frontier Publications, 29 Jan. 2018, [www.wnypapers.com/news/article/current/2018/01/29/131318/amazon-original-feel-what-u-feel-by-lisa-loeb-wins-grammy-for-best-childrens-album](http://www.wnypapers.com/news/article/current/2018/01/29/131318/amazon-original-feel-what-u-feel-by-lisa-loeb-wins-grammy-for-best-childrens-album).

<sup>50</sup> Schlosser, Kurt. "Amazon Wins Two Golden Globe Awards for Stars of 'Marvelous Mrs. Maisel' and 'Very English Scandal'." GeekWire, 6 Jan. 2019, [www.geekwire.com/2019/amazon-wins-two-golden-globe-awards-stars-marvelous-mrs-maisel-english-scandal](http://www.geekwire.com/2019/amazon-wins-two-golden-globe-awards-stars-marvelous-mrs-maisel-english-scandal).

<sup>51</sup> Spangler, Todd. "Snapchat Sets Slate of New Scripted Originals and Docu-Series, Doubling Down on Mobile TV." Variety, 10 Oct. 2018, [variety.com/2018/digital/news/snap-snapchat-originals-scripted-shows-1202973565](http://variety.com/2018/digital/news/snap-snapchat-originals-scripted-shows-1202973565).

<sup>52</sup> Lunden, Ingrid. "YouTube Denies That It Is Canning Scripted Series, Plans to Launch Ad-Supported Slate in Coming Weeks." TechCrunch, 25 Mar. 2019, [techcrunch.com/2019/03/25/youtube-denies-that-it-is-canning-scripted-series-plans-to-launch-ad-supported-slate-in-coming-weeks](http://techcrunch.com/2019/03/25/youtube-denies-that-it-is-canning-scripted-series-plans-to-launch-ad-supported-slate-in-coming-weeks).

<sup>53</sup> Spangler, Todd. "Facebook Renews Four Original Series Including 'Sorry for Your Loss,' Claims 75 Million Daily 'Watch' Viewers." Variety, 13 Dec. 2018, [variety.com/2018/digital/news/facebook-watch-series-renewals-75-million-daily-viewers-1203088457](http://variety.com/2018/digital/news/facebook-watch-series-renewals-75-million-daily-viewers-1203088457).

<sup>54</sup> Steigrad, Alexandra. "Twitter to Launch Original Programming." New York Post, 30 Apr. 2018, [nypost.com/2018/04/30/twitter-to-launch-original-programming](http://nypost.com/2018/04/30/twitter-to-launch-original-programming).

creative work. A recent study from the Re:Create Coalition showed that American independent creators' aggregate revenue across only nine user-generated content platforms grew by 15% to \$7 billion in a single year.<sup>55</sup> For instance, creators on YouTube earned \$4 billion in 2017, a 21% increase from \$3.3 billion in 2016.<sup>56</sup> The creativity fostered on platforms has a proven track record of launching many artists' careers in more traditional media and has led to the development of premium content. Recording artists Justin Bieber and Charlie Puth got their break on YouTube,<sup>57</sup> and Shawn Mendes began his career on Vine.<sup>58</sup> YouTube stars Abbi Jacobson and Ilana Glazer turned their web series "Broad City" into a successful Comedy Central series.<sup>59</sup> Similarly, Adam Conover turned his YouTube video series "Adam Ruins Everything" into a truTV series.<sup>60</sup> These artists, and countless more, were able to launch their careers due to the community of creatives that Section 512 promotes.

The amount of user-generated content being produced and shared on internet platforms is truly staggering. YouTube users upload 400 hours of video every minute.<sup>61</sup> Facebook users upload more than 300 million photos daily.<sup>62</sup> Instagram sees over 100 million photos and videos posted each day.<sup>63</sup> Video game-streaming platform Twitch sees over 2.2 million creators sharing their live activities, particularly live gaming streams, every month.<sup>64</sup> Snapchat users produce 3.5 billion snaps each day.<sup>65</sup> Twitter transmits 500 million tweets every day.<sup>66</sup> These platforms

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<sup>55</sup> Amazon Publishing, eBay, Etsy, Instagram, Shapeways, Tumblr, Twitch, WordPress, and YouTube. "Updated Study Finds Revenues from the New Creative Economy Grew 15% To \$7 Billion In Just One Year." Re:Create Coalition, 11 Feb. 2019, [recreatecoalition.org/press\\_release/updated-study-finds-new-creative-economy-grew-15-to-7-billion-in-just-one-year](http://recreatecoalition.org/press_release/updated-study-finds-new-creative-economy-grew-15-to-7-billion-in-just-one-year).

<sup>56</sup> Shapiro, Robert and Siddhartha Aneja. "Taking Root: The Growth of America's New Creative Economy." Re:Create Coalition, Feb 2019, [www.recreatecoalition.org/wp-content/uploads/2019/02/ReCreate-2017-New-Creative-Economy-Study.pdf](http://www.recreatecoalition.org/wp-content/uploads/2019/02/ReCreate-2017-New-Creative-Economy-Study.pdf), p.14.

<sup>57</sup> Lentz, Cheyenne. "11 Celebrities Who Used Social Media to Launch Their Careers." Insider, 5 Feb. 2019, [www.thisisinsider.com/celebrities-who-started-on-social-media-2019-2](http://www.thisisinsider.com/celebrities-who-started-on-social-media-2019-2).

<sup>58</sup> Aswad, Jem. "How Shawn Mendes Is Turning Vine Fame Into a Music Career." Billboard, 18 Jul. 2014, [www.billboard.com/articles/news/6165603/shawn-mendes-vine-magazine-story](http://www.billboard.com/articles/news/6165603/shawn-mendes-vine-magazine-story).

<sup>59</sup> Schroeder, Audra. "'Broad City' Makes the Jump from YouTube to Comedy Central." The Daily Dot, 22 Jan. 2014, [www.dailymdot.com/upstream/broad-city-youtube-comedy-central](http://www.dailymdot.com/upstream/broad-city-youtube-comedy-central).

<sup>60</sup> Weaver, Nicole. "6 YouTube Stars That Got Their Own TV Shows." The Cheat Sheet, 17 Oct. 2016, [www.cheatsheet.com/entertainment/youtube-stars-got-own-tv-shows.html](http://www.cheatsheet.com/entertainment/youtube-stars-got-own-tv-shows.html).

<sup>61</sup> "How Google Fights Piracy." Google, Nov. 2018, [www.blog.google/documents/25/GO806\\_Google\\_FightsPiracy\\_eReader\\_final.pdf](http://www.blog.google/documents/25/GO806_Google_FightsPiracy_eReader_final.pdf), p.19.

<sup>62</sup> Chan, Casey. "What Facebook Deals with Everyday: 2.7 Billion Likes, 300 Million Photos Uploaded and 500 Terabytes of Data." Gizmodo, 22 Aug. 2012, [gizmodo.com/what-facebook-deals-with-everyday-2-7-billion-likes-3-5937143](http://gizmodo.com/what-facebook-deals-with-everyday-2-7-billion-likes-3-5937143).

<sup>63</sup> Aslam, Salman. "Instagram by the Numbers: Stats, Demographics & Fun Facts." Omnicore, 6 Jan. 2019, [www.omnicoreagency.com/instagram-statistics](http://www.omnicoreagency.com/instagram-statistics).

<sup>64</sup> "Twitch Audience." Twitch Advertising, [twitchadvertising.tv/audience](http://twitchadvertising.tv/audience).

<sup>65</sup> Newton, Casey. "Snapchat Introduces a Redesigned App That Separates Your Friends from Brands." The Verge, 29 Nov. 2017, [www.theverge.com/2017/11/29/16712704/snapchat-redesign-friend-feed-discover](http://www.theverge.com/2017/11/29/16712704/snapchat-redesign-friend-feed-discover).

<sup>66</sup> Cooper, Paige. "28 Twitter Statistics All Marketers Should Know in 2019." Hootsuite, 16 Jan. 2019, [blog.hootsuite.com/twitter-statistics](http://blog.hootsuite.com/twitter-statistics).



provide a podium for discussion, reviews, and commentary, as well as an open stage for creative endeavors. All of this content contributes to the progress of the useful arts and is a direct result of the safe harbors established by Section 512.

As internet companies increasingly fund the production of content and themselves become stakeholders in content rights and launching pads for artists around the world, the need for the balance established by Section 512 has become even more evident. The same protections and incentives that have fueled success in the American creative and tech sectors now find a nexus in IA member companies. Maintaining that balance is critical to ensuring the continued success of all stakeholders.

## Internet Companies Provide Access to and Amplify Interest in Legal Content

IA members, as both hosts of and rights holders in creative content, recognize the value of intellectual property and understand the negative impacts of copyright infringement. Internet companies are investing more each year in increasing access to legal content for their users, providing affordable alternatives.

IA members have dedicated significant resources to providing access to content through content licensing. These licensing deals are powered by the balanced framework of the DMCA, which encourages collaboration among stakeholders. On-demand music streams increased by over 40% in 2017 and again in 2018,<sup>67</sup> fueled primarily by investments by streaming companies like Amazon and Google. These investments have contributed significantly to the success of the music industry in recent years. YouTube has paid over \$6 billion in total ad revenue to the music industry.<sup>68</sup> In addition to streaming companies, other IA companies are investing more in content. In 2018, Facebook confirmed licensing deals with major publishers and record labels, allowing Facebook, Instagram, and Oculus to use licensed music on their platforms.<sup>69</sup> Snap's partnerships with publishers have resulted in a ten-fold increase in payments from 2015 to 2017.<sup>70</sup>

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<sup>67</sup> "U.S. Music Streams Volume 2018." Statista, [www.statista.com/statistics/384687/on-demand-music-streams-number-usa](http://www.statista.com/statistics/384687/on-demand-music-streams-number-usa).

<sup>68</sup> "How Google Fights Piracy." Google, Nov. 2018, [www.blog.google/documents/25/GO806\\_Google\\_FightsPiracy\\_eReader\\_final.pdf](http://www.blog.google/documents/25/GO806_Google_FightsPiracy_eReader_final.pdf), p.14.

<sup>69</sup> Wang, Amy X. "Facebook Is Finally Putting Music Back Into Social Networking." Rolling Stone, 5 Jun. 2018, [www.rollingstone.com/music/music-news/facebook-is-finally-putting-music-back-into-social-networking-629164](http://www.rollingstone.com/music/music-news/facebook-is-finally-putting-music-back-into-social-networking-629164).

<sup>70</sup> Wagner, Kurt. "Snap Paid Publishers More than \$100 Million Last Year." Recode, 6 Feb. 2018, [www.recode.net/2018/2/6/16981610/snapchat-advertising-revenue-share-media-partners-discover](http://www.recode.net/2018/2/6/16981610/snapchat-advertising-revenue-share-media-partners-discover).

IA companies are investing in and supporting the growth of sports programming as well. Amazon entered a licensing deal to stream NFL football games in 2017.<sup>71</sup> Facebook has partnered with the NFL to license Game Recaps and official highlights from all 256 regular season games as well as the playoffs and Super Bowl<sup>72</sup> and has also partnered with Major League Baseball to license games.<sup>73</sup>

In addition to providing greater access to works, IA members create value for artists by connecting them with consumers in groundbreaking ways. Streaming and social media companies introduce listeners to new music and video and connect existing fans with their favorite artists. Artists using internet platforms to post their own works are finding access to new, unlimited audiences. These connections improve relationships, drive engagement, and inform artists.

In 2017, for example, 20% of Snapchat users – nearly 38 million users – experienced content using the app’s Discover feature, which introduces recommended content.<sup>74</sup> In Q3 2018, 21 unique shows in Discover reached a monthly active audience of over 10 million viewers.<sup>75</sup>

Exposure to new content stretches across borders and greatly benefits artists and consumers. In 2017, YouTube powered an explosion in the popularity of Latin American music around the world. Daily YouTube view counts for top Latin acts skyrocketed, growing 316% in India, 268% in Indonesia, 257% in the Philippines, 206% in Egypt, 150% in Israel, 120% in the United Kingdom and 116% in Australia.<sup>76</sup>

Internet companies have even unlocked new categories of content that have attracted millions of creators. For example, Twitch provides more than 2.2 million creators a way to entertain and interact with a global community in real time. More than 15 million unique visitors spend an average of 95 minutes daily watching and chatting with Twitch creators as they live broadcast themselves playing video games, as well as engaging in other activities such as cooking,

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<sup>71</sup> Flint, Joe, and Shalini Ramachandran. “NFL and Amazon Reach One-Year Streaming Deal for About \$50 Million.” The Wall Street Journal, 4 Apr. 2017, [www.wsj.com/articles/nfl-and-amazon-reach-one-year-streaming-deal-for-about-50-million-1491347701](http://www.wsj.com/articles/nfl-and-amazon-reach-one-year-streaming-deal-for-about-50-million-1491347701).

<sup>72</sup> “National Football League and Facebook Announce Worldwide Programming Partnership.” NFL, 26 Sep. 2017, [nflcommunications.com/Pages/National-Football-League-and-Facebook-Announce-Worldwide-Programming-Partnership.aspx](http://nflcommunications.com/Pages/National-Football-League-and-Facebook-Announce-Worldwide-Programming-Partnership.aspx).

<sup>73</sup> Soshnick, Scott. “Facebook Signs Exclusive Deal to Stream 25 MLB Games.” Bloomberg, 9 Mar. 2018, [www.bloomberg.com/news/articles/2018-03-09/facebook-says-play-ball-in-exclusive-deal-to-stream-25-mlb-games](http://www.bloomberg.com/news/articles/2018-03-09/facebook-says-play-ball-in-exclusive-deal-to-stream-25-mlb-games).

<sup>74</sup> Treene, Alayna, and Sara Fischer. Snapchat Data: Discover and Maps Performance Lagging. Axios, 9 Jan. 2018, [www.axios.com/snapchat-data-reveals-1515517214-960bef45-9e75-460e-aeb0-c96043d52f6a.html](http://www.axios.com/snapchat-data-reveals-1515517214-960bef45-9e75-460e-aeb0-c96043d52f6a.html).

<sup>75</sup> “Form 8-K - Current Report.” Snap, 25 Oct. 2018, [otp.tools.investis.com/clients/us/snap\\_inc/SEC/sec-show.aspx?Type=html&FilingId=13022877&CIK=0001564408&Index=10000](http://otp.tools.investis.com/clients/us/snap_inc/SEC/sec-show.aspx?Type=html&FilingId=13022877&CIK=0001564408&Index=10000).

<sup>76</sup> “How Google Fights Piracy.” Google, Nov. 2018, [www.blog.google/documents/25/GO806\\_Google\\_FightsPiracy\\_eReader\\_final.pdf](http://www.blog.google/documents/25/GO806_Google_FightsPiracy_eReader_final.pdf), p.10

painting, or podcasting. Creators use Twitch's tools and services to live stream their activities, chat with viewers, and grow their audiences, as well as make a business out of streaming through channel subscriptions, commercial sponsorships and advertising. Such efforts brought U.S. creators roughly \$87 million in earnings in 2017. Twitch facilitates strong connections between creators and consumers; for example, Electronic Arts recently launched a highly successful marketing campaign<sup>77</sup> that promoted its new game Apex Legends solely by having Twitch creators live stream their Apex Legends gameplay on Twitch.

Traditional social media has also been shown to power content consumption and fan engagement. A 2018 study by MusicWatch found that Facebook, Twitter, Snapchat, and Instagram drive engagement between artists and listeners. The study found that 9 out of 10 social media users perform a music-related activity on their apps. Between 44% and 68% of users follow, like, or view posts related to artists or performances, and musical artists are the most followed type of celebrity. Social media drives users to new music: 63% of users agree that they are discovering new artists on social media and almost 60% are visiting streaming services to listen to music after they see an update, tweet or post.<sup>78</sup>

Internet companies are connecting more than just musical artists with listeners. Other creators can also find IA members driving consumers to their works. Publishers, for instance, can expect higher subscription rates from consumers who saw Instant Articles on Facebook,<sup>79</sup> and readers are 70% less likely to abandon articles.<sup>80</sup> This increased engagement shows the power of collaboration between creators and internet companies.

The increased value brought by internet companies to creators and consumers enriches the market for content and brings people together. These innovations are a product of the flexible copyright system framed by Section 512. The certainty and safety of the DMCA empower companies to experiment with new and exciting ways to connect people with creators, both new and familiar.

## Conclusion

As the Office finalizes its report on Section 512, it is crucial that it take into account the transformation of the copyright landscape over the past several years. The Office should consider the evolution of internet companies from hosts of user-generated content into creators of original content, the increased licensing of copyrighted works, the continued efforts to remove infringing material, the investment in technological protections over and above legal

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<sup>77</sup> Kim, Tae. "EA Paid Twitch Gamers to Battle Back Against Fortnite." Barron's, 12 Feb. 2019, [www.barrons.com/articles/electronic-arts-apex-legends-twitch-51550006658](http://www.barrons.com/articles/electronic-arts-apex-legends-twitch-51550006658).

<sup>78</sup> Crupnick, Russ. Music Scores A Gold Record on The Social Media Charts. MusicWatch, 6 Aug. 2018, [www.musicwatchinc.com/blog/music-scores-a-gold-record-on-the-social-media-charts](http://www.musicwatchinc.com/blog/music-scores-a-gold-record-on-the-social-media-charts).

<sup>79</sup> Hardiman, Alex. "Investing in News Subscriptions." Facebook, 27 Jun. 2018, [www.facebook.com/facebookmedia/blog/investing-in-news-subscriptions](http://www.facebook.com/facebookmedia/blog/investing-in-news-subscriptions).

<sup>80</sup> "Instant Articles." Facebook, [instantarticles.fb.com](http://instantarticles.fb.com).

requirements, and the improved relationships between creators and consumers. These considerations demonstrate that the incentives are properly balanced to encourage cooperation among rights holders, internet companies, and consumers.

Balanced copyright law provides legal certainty that has been instrumental and indispensable in the development and success of internet companies, which in turn have fueled growth in traditional creative industries and launched digital services not yet imagined when the DMCA was enacted. Under the shared responsibilities of the notice and takedown system, rights holders and digital platforms alike have flourished as consumers increasingly rely on the internet for access to legal content. To upset that balance would jeopardize the continued success of both of these industries.

The most effective path to solutions requires collaboration and good-faith partnerships. IA is committed to working with all stakeholders to ensure that the next twenty years of the DMCA are as successful as the first twenty. We thank the Office for its willingness to be forward thinking in its analysis of Section 512. We appreciate its consideration of these comments and for its continued efforts to support Congress, the growing creative community, and the people.