



14 October 2019

The Honorable Frank Pallone, Chairman  
The Honorable Greg Walden, Ranking Member  
House Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Pallone, Ranking Member Walden, and Members of the Committee:

Thank you for holding the Oct. 16, 2019 hearing on the online liability protections in Section 230 of the Communications Decency Act. CreativeFuture is a nonprofit coalition of more than 550 companies and organizations and more than 230,000 individuals from film, television, music, book publishing, photography, and other creative industries. We respectfully request that you include in the record of the hearing this cover letter and the attached documents.

The internet is an extraordinary tool. It enables our members – as well as anyone and everyone around the world – to create content and reach audiences like never before.

Unfortunately, a lack of accountability on the part of social media companies and online intermediaries is also facilitating piracy of a scale and scope like never before. That piracy and lack of accountability is jeopardizing the ability of creatives to fund and produce their art, and to earn a living. It also jeopardizes the 5.7 million U.S. jobs and \$1.3 trillion in GDP that the core copyright industries bring to the U.S. economy.

We are therefore grateful to see that not just this Committee, but all of Congress, is carefully examining whether social media companies and online intermediaries are living up to Congress' expectations in exchange for the liability limitations they enjoy from Section 230, and in Section 512 of the Copyright Act. While the latter provision is most relevant to us, they share a common DNA: they were both intended to help then-nascent online platforms grow, as well as to encourage them to do what was necessary to keep their services free of illegal activity.

The attached filings with the FTC express our concern that social media platforms and online intermediaries are not holding up their end of the bargain. While they are enjoying the protections of the liability limitations, which has allowed them to generate immense profits, they are not taking adequate measures to rid their services of illicit conduct, including piracy.

We call your particular attention to Google and its YouTube service. The attached letter from Senators Tillis, Coons, Blackburn, and Feinstein, and Representatives Nadler, Collins, Schiff, and Roby encapsulates our concern that while YouTube is making its Content ID system available to the largest movie and television producers to help them curb piracy of their works, it does not make that system, or an effective alternative, available to many of the mid-sized and smaller creatives my organization speaks for, even though those creatives also produce significant amounts of content and suffer, often disproportionately, from piracy.

The attached filing with the U.S. International Trade Commission expresses support for the USMCA, since its copyright-related provisions are, on balance, a helpful update of NAFTA, which was adopted in the pre-digital era. The filing does ask, however, that future trade agreements not be used to export current online liability limitations from U.S. law. It is unwise to tie Congress' hands precisely at the time when it is debating whether these 20-year-old limitations need revision.

We thank you for considering our views, and we look forward to continued engagement with your committee on these issues.

Sincerely,

A handwritten signature in blue ink, reading "Ruth Vitale". The signature is written in a cursive, flowing style.

Ruth Vitale  
CEO, CreativeFuture