

14 July 2023

The Honorable Richard Durbin  
Chairman  
Senate Committee on the Judiciary  
United States Senate  
Washington, DC 20510

The Honorable Lindsey Graham  
Ranking Member  
Senate Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Graham:

We want to thank you for your continued focus on internet platform accountability.

We, the undersigned, write to you today on behalf of the almost ten million Americans who make their living in the core copyright industries – from film, television, music, book publishing, video games, and photography. Our nation’s creative economy, the world’s best, continues to be under siege by digital piracy despite the almost universal availability of our work in the legitimate digital marketplace.

We appreciate that a primary subject of your work in the area of platform accountability has involved reform of Section 230 and the many ways the largest American internet companies have relied upon this outdated law to avoid responsibility for some of the worst crimes committed on their platforms – many involving children.

As the Committee with jurisdiction over copyright, we ask that you not lose sight of the parallel harms suffered by the creative community as a result of the failure of the same companies to take responsibility for the widespread and well-documented infringement occurring on their platforms. As you know, copyright is explicitly carved out of Section 230 but is governed by its close cousin, Section 512 of the Copyright Act, which functions as a similarly overbroad liability shield enacted a quarter century ago as part of the Digital Millennium Copyright Act (DMCA).

The creative communities have long been focused on how the absence of accountability has led to the proliferation of theft of copyright-protected creative content – to the detriment of creatives and the U.S. economy.

A recent study commissioned by the U.S. Chamber of Commerce estimates that global streaming video piracy costs the U.S. economy at least **\$29.2 billion** and up to **\$71 billion** in lost revenue *each year*. This is a staggering loss for the creative industries, which now provide more legitimate platforms on which to access authorized versions of audiovisual works than ever before.

We can think of no other American industry that competes so directly with a criminal marketplace that offers the exact same product, **often for free** – and that is aided and abetted by publicly-traded companies that profit from the theft themselves.

Over the past three years, members of the Senate Judiciary IP Subcommittee and other Members of Congress have written letters to several of these companies inquiring about their ability and willingness to work voluntarily toward solutions to curb piracy: Alphabet, Meta, Twitter, and Verisign among them.

Nevertheless, American consumers are today still able to easily access piracy apps and websites, as well as pirated content on those companies' platforms or websites. (We have included those letters with this submission.)

Online copyright infringement has been a canary in the digital coal mine from the inception of the internet. While the significant societal harms the Committee has focused on related to Section 230 are distinct in some ways, they share the same root cause as the piracy problems we've fought for decades: A legal framework that fails to hold internet platforms to the same standards of accountability as every other significant American industry.

As you continue to shine a spotlight on platform accountability, we hope you will give appropriate and needed attention to the flourishing global piracy ecosystem, a system currently turbo-charged by the lack of existing tools to address it. Any meaningful focus on platform accountability must include consideration of the economic and cultural impact that a lack of accountability under Section 512 is having on the creative communities and on our nation as a whole. While it may have been true in the late '90s that fledgling internet companies could not effectively police their own platforms for infringement, that argument is certainly not valid today.

America's creative industries are a significant economic driver, contributing more than \$1.8 trillion to GDP. These same industries are a leading source of exports, outpacing other major U.S. industries such as aerospace, agriculture, and pharmaceuticals, according to the International Intellectual Property Alliance's 2022 *Copyright Industries in the U.S. Economy* report.<sup>1</sup> When consumers in other countries enjoy American-made creative products, job creation and economic growth occur here.

Our creative communities span this country and the world. We are artists, craftspeople, writers, producers, guilds and unions, talent agencies, studios, independents, music labels, and mostly small businesses. 92% of the businesses in the film and television industry employ fewer than 10 people.

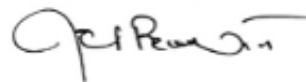
We applaud the Committee for its attention to platform accountability. We stand ready to work with you to ensure protections for the rights of the creative communities. Contrary to claims by Silicon Valley, properly balanced incentives and responsibilities need not undermine our nation's freedom of expression and innovation, values that creatives take seriously and rely upon in their daily work.

Thank you for your consideration.

Respectfully,



Ruth Vitale  
CEO, CreativeFuture



Jean Prewitt  
CEO, Independent Film & Television Alliance

CC: Senate Judiciary Committee

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<sup>1</sup> [https://www.iipa.org/files/uploads/2022/12/IIPA-Report-2022\\_Interactive\\_12-12-2022-1.pdf](https://www.iipa.org/files/uploads/2022/12/IIPA-Report-2022_Interactive_12-12-2022-1.pdf)

**Congress of the United States**  
**Washington, DC 20515**

**VIA ELECTRONIC TRANSMISSION**

September 3, 2019

Mr. Sundar Pichai  
Chief Executive Officer  
Google LLC  
1600 Amphitheatre Parkway  
Mountain View, CA 94043  
USA

Dear Mr. Pichai:

We write today regarding Google's efforts related to platform responsibility in the digital environment. Over the last year, Google has appeared before multiple House and Senate committees to discuss this issue. In response to questions from our congressional colleagues regarding efforts Google is taking to stem widespread distribution of infringing content, you have routinely pointed to YouTube's "Content ID" system as an example.

YouTube Content ID is described as a "strong set of tools to prevent copyright infringing material from appearing."<sup>1</sup> We understand that Content ID is a technology developed by Google and voluntarily made available to creators. We appreciate Google's efforts to combat the illegal distribution of content on YouTube.

It has also come to our attention that access to the Content ID system is only granted to companies that "own exclusive rights to a *substantial body* of original material that is *frequently uploaded* by the YouTube user community."<sup>2</sup> We are concerned that copyright holders with smaller catalogs of works cannot utilize Content ID, making it more difficult or impossible for them to effectively protect their copyrighted works from infringement and, ultimately, impacting their livelihoods. We have heard from copyright holders who have been denied access to Content ID tools, and as a result, are at a significant disadvantage to prevent the repeated uploading of content that they have previously identified as infringing. They are left with the choice of spending hours each week seeking out and sending notices about the same copyrighted works, or allowing their intellectual property to be misappropriated.

The core copyright industries in the United States provide over 5.7 million jobs and generate \$1.3 trillion toward the country's gross domestic product, accounting for 6.85% of the U.S. economy.<sup>3</sup>

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<sup>1</sup> *Online Platforms and Market Power, Part 2: Innovation and Entrepreneurship: Hearing Before the Subcomm. on Antitrust, Commercial & Admin. Law of the H. Comm. on the Judiciary*, 116th Cong. (2019), <https://judiciary.house.gov/legislation/hearings/online-platforms-and-market-power-part-2-innovation-and-entrepreneurship>.

<sup>2</sup> *Using Content ID*, YOUTUBE HELP, <https://support.google.com/youtube/answer/3244015> (last visited Aug. 15, 2019).

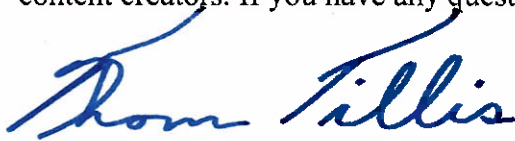
<sup>3</sup> Stephen E. Siwek, COPYRIGHT INDUSTRIES IN THE U.S. ECONOMY: THE 2018 REPORT 3, 6 (2018), <https://iipa.org/files/uploads/2018/12/2018CpyrtRptFull.pdf>.

**Congress of the United States**  
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Preserving these industries is of great importance to our economy and to our nation's ability to compete internationally. Given the significant impact this technology could have on these industries and the creators that are at their heart, we respectfully request your participation in a roundtable with Congressional offices and members of the creative community to discuss the following questions and issues.

1. In general, how does the Content ID technology work? Compared to other available mechanisms for rights holders to identify potentially infringing works on Google's platforms, how much day-to-day involvement of rights holders is needed?
2. How do the user and Google work together to identify and block illegal material? To what extent is Content ID dependent upon user engagement and interaction?
3. Please describe generally which types of rights holders currently are permitted to use Content ID, including how Google assesses whether a rights holder owns a "substantial body of original material" and whether such material is "frequently uploaded."
  - a. How often does a piece of content need to appear on YouTube in order to be considered a "frequently uploaded" work?
  - b. Is "frequently uploaded" an absolute or relative measure?
4. Please describe any terms and conditions related to the use of Content ID.
5. Other than YouTube, on what Google platforms is Content ID used to identify and block infringing material? For example, do you use it to block the distribution of infringing material on Blogger, Google Photos, and Google Drive, among others? If not, do you plan to implement Content ID or similar safeguards on these platforms?
6. Does Google plan to provide access to Content ID to a larger number of rights holders? If so, when? If not, what challenges prevent you from doing so?

We ask that you reply by October 30, 2019 with a date for this roundtable, which will be no later than the end of the 2019 calendar year. Again, we appreciate the efforts that you have made to combat distribution of infringing content on YouTube. Given its apparent benefits to rights holders, we hope that you will consider making Content ID and the benefits it provides available to a larger category of content creators. If you have any questions, please do not hesitate to contact us.

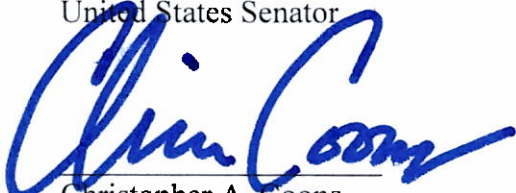


Thom Tillis  
United States Senator

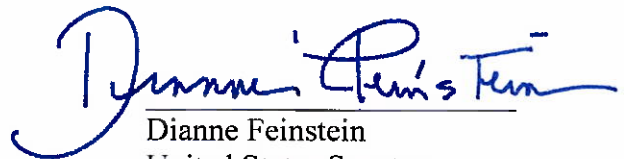
Sincerely,



Marsha Blackburn  
United States Senator

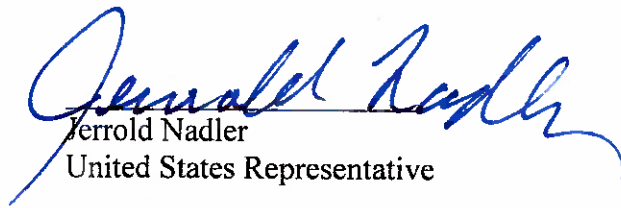


Christopher A. Coons  
United States Senator

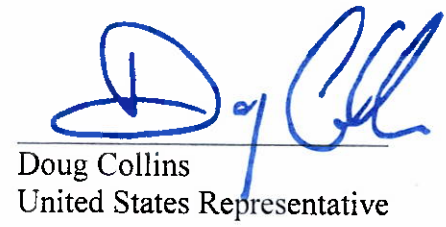


Dianne Feinstein  
United States Senator

Congress of the United States  
Washington, DC 20515



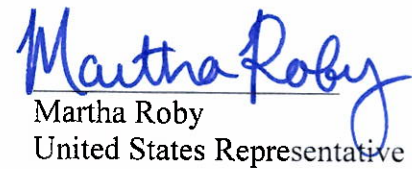
Jerrold Nadler  
United States Representative



Doug Collins  
United States Representative



Adam B. Schiff  
United States Representative



Martha Roby  
United States Representative



# United States Senate

WASHINGTON, DC 20510

COMMITTEES

ARMED SERVICES  
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DEVELOPMENT  
JUDICIARY  
VETERANS' AFFAIRS

## VIA ELECTRONIC TRANSMISSION

February 6, 2020

Mr. Sundar Pichai  
Chief Executive Officer  
Google LLC  
1600 Amphitheatre Parkway  
Mountain View, CA 94043  
USA

Ms. Susan Wojcicki  
Chief Executive Officer  
YouTube, LLC  
901 Cherry Avenue  
San Bruno, CA 94066  
USA

Dear Mr. Pichai and Ms. Wojcicki:

We write to you today as a follow-up to the December 5, 2019 Content ID Roundtable discussion hosted by our offices. This roundtable helped us understand some of the challenges faced by both content creators and platform providers like YouTube in dealing effectively with the problem of widespread piracy.

Although the roundtable was productive, we heard examples of creators whom you seemed to agree were wrongfully denied access to Content ID. Time constraints prevented participants from fully discussing these specific situations or having a full discussion of the questions from our attached September 3, 2019 letter. Accordingly, we would appreciate a written response to the questions posed in that letter.

In addition to formal responses to the questions posed in our earlier letter, we further request that you respond to issues and requests that arose from the roundtable. Specifically:

1. Have you considered making Content ID more widely available and publishing the eligibility and user verification criteria to be approved to use Content ID?
2. What are your thoughts on creating a simpler appeals process and making a YouTube employee available to discuss the rejection with content owners seeking access to Content ID?

THOM TILLIS  
NORTH CAROLINA

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## United States Senate

WASHINGTON, DC 20510

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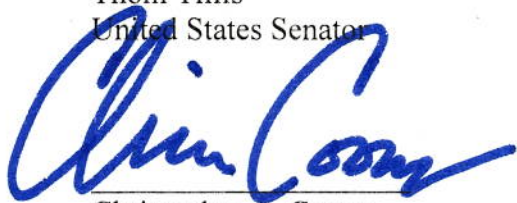
3. Copyright Match was discussed extensively at the roundtable as one solution for content owners. However, Copyright Match requires copyright owners to agree to upload their content to YouTube. There were conflicting statements at the roundtable as to whether this tool allows for a private upload. What are your thoughts on ensuring Copyright Match is an effective tool by not requiring copyright owners to place their content on YouTube in order to benefit from the Copyright Match tool?

In order to continue our productive communication on this topic, we request that you provide written answers to these and our original questions by no later than March 6, 2020. Based on those answers, we may suggest additional engagement with our offices and the content owner community, if necessary. We look forward to receiving your response.

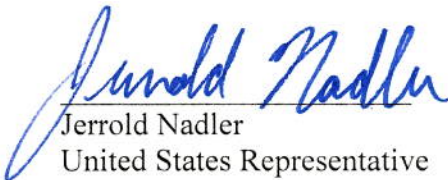
Sincerely,



Thom Tillis  
United States Senator



Christopher A. Coons  
United States Senator



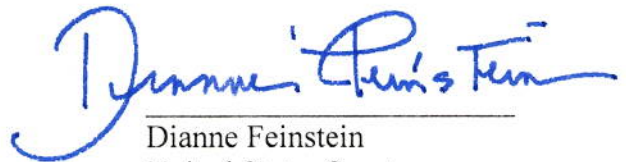
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Ben Cline  
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United States Senator



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United States Senator



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# United States Senate

WASHINGTON, DC 20510

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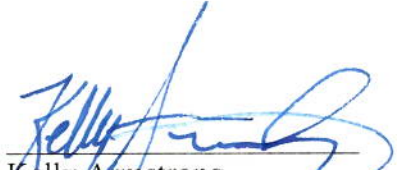
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United States Representative



Theodore Deutch  
United States Representative



Harley Rouda  
United States Representative



Kelly Armstrong  
United States Representative

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**VIA ELECTRONIC TRANSMISSION**

March 29, 2021

Mr. Sundar Pichai  
Chief Executive Officer  
Alphabet, Inc.  
1600 Amphitheatre Parkway  
Mountain View, CA 94043

Mr. Mark Zuckerberg  
Chief Executive Officer  
Facebook, Inc.  
1 Hacker Way  
Menlo Park, CA 94025

Ms. Susan Wojcicki  
Chief Executive Officer  
YouTube  
901 Cherry Ave.  
San Bruno, CA 94066

Mr. Jack Dorsey  
Chief Executive Officer  
Twitter, Inc.  
1355 Market Street, Suite 900  
San Francisco, CA 94103

Mr. Emmett Shear  
Chief Executive Officer  
Twitch Interactive, Inc.  
350 Bush Street  
San Francisco, CA 94104

Dear Ms. Wojcicki and Messrs. Pichai, Zuckerberg, Dorsey, and Shear:

We write you today regarding the issue of online copyright piracy. As you may know, last year the Senate Judiciary Committee Subcommittee on Intellectual Property conducted a year-long, bipartisan review of digital copyright laws and online piracy. We write you today to seek your assistance in combating rampant online copyright piracy that undermines the U.S. intellectual property system and, in doing so, the U.S. economy.

The Committee's year-long review developed an extensive record through multiple public hearings, staff roundtables, and written testimony. This review was complemented by the United States Copyright Office's report culminating in its Section 512 Study, which itself was based on years of engagement with stakeholders and the public. Taken together, the Committee's review and Copyright Office's report demonstrate that online copyright piracy has proliferated over the past two decades and presents a major threat to the economic health and well-being of American creators and the United States' broader creative economy.

At the Committee's hearing in December, we heard from witnesses about voluntary steps that your companies could take, without further delay, to meaningfully curb online copyright piracy. These include (1) providing copyright owners and creators with mechanisms to search for copyright piracy, at scale, on your platforms; (2) standardizing efficient mechanisms for sending takedown notices that would reduce deficient or improper notices and accelerate the takedown of infringements identified in such web forms; and (3) taking steps to prevent the continued reappearance of the same infringing material on the same platform after it has been properly taken down. In our view, these voluntary improvements that you could make to the current digital copyright ecosystem could significantly

reduce the prevalence of online copyright piracy and may negate the need for congressional action to rectify this situation.

To help us better understand the extent to which voluntary efforts to combat online copyright piracy can sufficiently address some of the issues raised in the Committee's year-long review, we ask that you answer the following questions by no later than April 29, 2021:

1. Based on the Committee's year-long review, we have identified three voluntary measures that your company could take to address online copyright piracy. Will you commit to implementing these measures? If so, when? If not, why not?
2. If you will not commit to implementing the voluntary measures we have identified, what additional measures can and will you take on a voluntary basis to address online copyright piracy? Please be as specific and detailed as possible.
3. To the extent you implement voluntary measures to combat online copyright piracy, including rights manager tools, will you commit to making such tools available to *all* content creators on fair and transparent terms? If not, why not?
4. In the Committee's December hearing, witnesses provided examples of unwillingness by some platforms to engage in conversations with many content creators to combat online copyright piracy? Is this true? If so, why? If not, please detail steps you are taking to regularly engage with content creators and rights holders to combat online copyright piracy.
5. Finally, to what extent do you believe the issue of online copyright piracy can be resolved by your companies working proactively with content creators? In other words, is the issue of online copyright piracy most effectively resolved through legislative changes or can it be better addressed by private actors working together constructively on a voluntary basis?

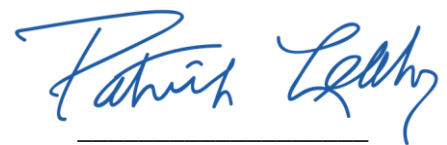
Thank you for your prompt attention to this matter and for your engagement on this important issue. In addition to answering our questions by the required deadline, we also ask that you, as industry leaders in each of your respective areas, consider engaging directly with relevant stakeholders to find ways to voluntarily address copyright piracy. Please identify next steps you intend to take to facilitate such discussions. As a follow-up to the responses we receive, we may consider asking the Copyright Office to facilitate continuing conversations with a goal of developing additional voluntary solutions that can be used by stakeholders across industries in support of similar approaches to address the problem of online piracy.

With the multitude of issues facing Congress and the American people, we welcome the opportunity to hear about the efforts private actors can take voluntarily to address a serious issue without the need for additional legislation and federal regulation. If you have any questions, please do not hesitate to contact us.

Sincerely,



Thom Tillis  
United States Senator

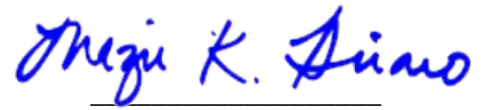


Patrick Leahy  
United States Senator



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Marsha Blackburn  
United States Senator



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Mazie K. Hirono  
United States Senator



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Christopher A. Coons  
United States Senator

**Congress of the United States**  
**Washington, DC 20510**

**VIA ELECTRONIC TRANSMISSION**

April 27, 2022

Mr. D. James Bidzos  
Chairman and Chief Executive Officer  
Verisign  
12061 Bluemont Way  
Reston, VA 20190

Dear Mr. Bidzos:

We write to convey our concerns about Verisign's failure to address the problem of digital theft of copyrighted works on the top-level domains the company administers. It is estimated that digital piracy leaches between \$47.5 billion and \$115.3 billion in reduced gross domestic product from the nation's economy each year.<sup>1</sup> In addition, online piracy sites can pose a significant threat to consumers through the spread of malware, phishing, scams, and other cyberabuse activity.<sup>2</sup> Verisign serves as the registry for almost half of all domain name registrations.<sup>3</sup> The company is therefore uniquely positioned to help curb this illegal activity. Its failure to do so has served as a significant contributor to the enormous scope and scale of this problem.

Verisign's "Registry-Registrar Agreement" makes clear it has the authority to prevent its service from being used to perpetrate blatant copyright infringement. Specifically, the terms that apply to Verisign's ".com" domain expressly prohibit domain name holders from "distributing malware, abusively operating botnets, phishing, pharming, piracy, trademark or *copyright infringement*, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law."<sup>4</sup> The terms of the agreement further make clear that Verisign may penalize a non-compliant domain name holder with sanctions up to and including cancellation of the registration of the domain name.<sup>5</sup>

Despite Verisign's clear authority to undertake certain measures to combat online piracy, the company has failed to take adequate steps to address the problem. For example, members of the

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<sup>1</sup> <https://www.theglobalipcenter.com/wp-content/uploads/2019/06/Digital-Video-Piracy.pdf>.

<sup>2</sup> See, e.g., <https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/digitalbait.pdf>.

<sup>3</sup> [https://www.verisign.com/en\\_US/domain-names/dnib/index.xhtml?section=executive-summary](https://www.verisign.com/en_US/domain-names/dnib/index.xhtml?section=executive-summary).

<sup>4</sup> <https://www.verisign.com/assets/com-registrar-agreement.pdf> (emphasis added).

<sup>5</sup> See *id.* ("a provision that requires the Registered Name Holder to acknowledge and agree that Verisign reserves the right to deny, cancel, redirect or transfer any registration or transaction, or place any domain name(s) on registry lock, hold or similar status, as it deems necessary, in its unlimited and sole discretion . . . (6) to stop or prevent any violations of any terms and conditions of this Agreement . . .").



creative community and industry groups, including representatives of the film and television industry, have asked your company to establish a Trusted Notifier program to facilitate the identification of the most egregious copyright infringing websites operating under domain names administered by Verisign and have Verisign voluntarily suspend the domain names of such sites.<sup>6</sup> You have repeatedly refused to take up such a program.

Sadly, your failure to take timely action to address the scourge of online piracy is consistent with your response to other illegal activities on the internet. For example, Verisign participated in a “pilot” Trusted Notifier program to address domains trafficking in illegal opioid sales in 2020.<sup>7</sup> However, Verisign’s action occurred only at the urging of others, and occurred two decades after the United States’ opioid epidemic began and after it had killed over 500,000 Americans. Indeed, LegitScript stated in a letter to the National Telecommunications and Information Administration (NTIA) dated October 24, 2018—nearly 2 years before Verisign finally participated in the pilot Trusted Notifier program with NTIA and the U.S. Food and Drug Administration (FDA)—that:

Verisign could be a partner in this fight by adopting, for example, the Trusted Notifier arrangement. *Instead, Verisign has chosen to remain on the sidelines, appearing to accept the abuse and illegal activity occurring on its domains.* Simply put, through its willful inaction and willingness to be an outlier in the internet ecosystem, Verisign is failing to help alleviate our country’s opioid epidemic.

The illegal activities conducted on websites operating under domains administered by Verisign—including commercial scale copyright piracy—are serious.

The U.S. creative industries are responsible for over 5.7 million American jobs—jobs we are charged with protecting. In 2019, the U.S. Chamber of Commerce found that piracy costs the U.S. economy between \$47.5 billion and \$115.3 billion and between 230,000 and 560,000 jobs *each year*.

To make matters worse, evidence suggests that as streaming surged during the COVID-19 pandemic, so too did streaming piracy. Data from the research firm MUSO shows that piracy surged globally by more than 33% after the onset of the pandemic.<sup>8</sup> The pandemic has been devastating to many of the creative community’s millions of workers. Tens of thousands were out of work for months and are only now slowly returning. Piracy makes an already challenging time even more difficult.

The piracy ecosystem responsible for these economic losses is fueled by websites operating under domain names that are administered by your company. According to the internet analytics firm Similarweb, the top five Verisign domains used for piracy sites receive over 150 million visitors each month in the United States alone. The top website—0123movie.net—receives over

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<sup>6</sup> See, e.g., <https://www.judiciary.senate.gov/imo/media/doc/Marks%20Testimony.pdf>.

<sup>7</sup> It appears that the pilot trusted notifier program resulted in the suspension of a total of 30 domain names according to a release by NTIA. See <https://www.ntia.doc.gov/blog/2021/ntia-fda-pilot-program-curb-access-illegal-opioids-online-delivers-promising-results>.

<sup>8</sup> <https://www.muso.com/magazine/film-tv-piracy-surge-during-covid-19-lockdown>.

80 million monthly visits. The top three music piracy websites whose domain names are administered by Verisign receive almost 35 million monthly visits worldwide.

These are staggering numbers, and difficult to reconcile with your own Registry-Registrar Agreements, which clearly indicate that you have the authority to intervene to suspend the domain names of websites engaged in this infringing activity. Copyright piracy depends upon users being able to easily find the relevant website engaged in this illegal activity via its domain name. When the domain name of such a website is cancelled or suspended, it makes it very difficult for users to find the site. While the website may still be technically operational and available via its IP address, to most users the website appears to have gone dark. In practical terms, domain name suspension thus serves to significantly limit the illegal activity.

Other responsible registries, such as Donuts and Radix, already have Trusted Notifier partnerships with creative community organizations to address copyright piracy. These programs have been in place and have functioned successfully for several years. Indeed, no major issues have arisen for either the registries or the notifying organizations, and no claims of unjustified suspension have been made by any of the domain name registrants or website operators associated with the domain names that have been suspended under these Trusted Notifier arrangements. Moreover, we understand that Verisign employees have helped lead recent efforts among registries and registrars within ICANN to produce a Trusted Notifier Framework.<sup>9</sup>

Verisign has a responsibility to take action to help stop this illegal activity. We encourage Verisign to accept that responsibility. To that end, we ask that you provide a response to the following questions no later than May 27, 2022.

1. Why has Verisign refused to implement a Trusted Notifier program to address the issue of online copyright piracy to date?
2. What lessons did Verisign learn from its pilot Trusted Notifier program to combat illegal opioid sales?
3. Will Verisign commit to entering into a Trusted Notifier program with organizations with expertise in copyright infringement to address the issue of online piracy?
4. How soon can Verisign implement a Trusted Notifier program to address the issue of online copyright piracy?
5. As part of a Trusted Notifier program, will Verisign commit to suspending the domain names of websites that are identified as conducting or facilitating large-scale copyright infringement?

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<sup>9</sup> <https://rrsg.org/wp-content/uploads/2021/10/Final-CPH-Notifier-Framework-6-October-2021.pdf>.

Sincerely,



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Mazie K. Hirono  
United States Senator



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Theodore E. Deutch  
Member of Congress



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Sheldon Whitehouse  
United States Senator



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Judy Chu  
Member of Congress



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Raphael Warnock  
United States Senator



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Christopher A. Coons  
United States Senator

Cc: Hon. Gina Raimondo, Secretary of Commerce  
Hon. Alan Davidson, Assistant Secretary of Commerce for Communications and  
Information and NTIA Administrator