



MOTION PICTURE ASSOCIATION

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FOR THE HEARING

“FOREIGN THREATS TO AMERICAN INNOVATION AND ECONOMIC LEADERSHIP”

BEFORE THE

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON INTELLECTUAL PROPERTY**

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I. INTRODUCTION AND OVERVIEW

Thank you, Chairman Tillis, Ranking Member Schiff, and members of the subcommittee, for the opportunity to testify about foreign threats to American innovation and economic leadership. America’s creative industries are an integral force behind its economic dominance in the world. Protecting the intellectual property (“IP”) rights of American creators through strong IP protection, including strong copyright laws and other enforcement tools, is therefore vital to maintaining and growing America’s global leadership. On behalf of the Motion Picture Association (“MPA”) and our members, I will focus today primarily on global threats to copyrighted content from digital piracy operations. I will also briefly explain emerging concerns related to artificial intelligence.

The MPA serves as the global voice and advocate of the motion picture, television, and streaming industries. It works in every corner of the globe to advance the creative industry, protect its members’ content across all screens, defend the creative and artistic freedoms of storytellers, and support innovative distribution models that expand viewing choices for audiences around the world.¹ The MPA’s member studios are: Amazon Studios LLC; Netflix Studios, LLC; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Universal City Studios LLC; Walt Disney Studios Motion Pictures; and Warner Bros. Entertainment Inc.

¹ MPA works in close partnership with the Alliance for Creativity and Entertainment (“ACE”), the world’s leading coalition dedicated to protecting the dynamic legal market and reducing digital piracy. Driven by a comprehensive approach to addressing piracy through criminal referrals, civil litigation, and cease-and-desist operations, ACE has achieved many successful global enforcement actions against illegal streaming services and other sources of unauthorized content and their operators. Drawing upon the collective expertise and resources of more than 50 media and entertainment companies around the world and reinforced by the content protection operations of the MPA, ACE protects the creativity and innovation that drive the global growth of core copyright and entertainment industries. For more information, please visit www.alliance4creativity.com.

The American motion picture and television industry is a global economic and cultural powerhouse, distributing films and TV shows in more than 130 countries. In 2023, the enduring value and global appeal of U.S. entertainment translated to \$22.6 billion in audiovisual exports.² Today, there are more than 915 legitimate streaming services providing audiovisual content to consumers online around the world, accommodating all manner of consumer viewing preferences. Moreover, this industry is one of the few that consistently generates a positive balance of trade: in 2023, that services trade surplus was \$15.3 billion, or three percent of the total U.S. private-sector trade surplus in services.³

The American motion picture and television industry is also a major U.S. employer that supported 2.3 million jobs and \$229 billion in total wages in 2023.⁴ This includes 312,000 jobs in the core business of producing, marketing, and manufacturing motion pictures, television shows, and video content, as well as 544,000 jobs in the distribution of such content to consumers.⁵ Many of these jobs are skilled-labor positions that support middle-class workers and that do not require a four-year college degree. The industry also supports a nationwide network of thousands of small businesses that support production and distribution, representing every state in the country, with ninety-two percent of these businesses employing fewer than ten people.⁶

Underpinning all this beneficial economic activity is American innovation and intellectual property. More specifically, it is the IP rights that provide the incentive to take innovative risks in creating new works of art and that protect the opportunity to realize the value of creative works in the open market, thus enabling ongoing investment in new content and distribution services. American leadership in IP traces back to the wisdom of the Founders, who explicitly granted to Congress in Article 1, Section 8 of the Constitution the power to “promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” Nearly 250 years later, owners of American IP, whether movies, books, television shows, or cutting-edge technology, benefit from a generally well-coordinated international treaties and trade agreements, developed with U.S. leadership over the past century, that protects American IP from being stolen and undermined by unscrupulous actors across the globe.

Digital Piracy Threats

Unfortunately, sophisticated global digital piracy operations are constantly exploiting gaps in existing enforcement tools to continue stealing valuable copyrighted content and monetizing that content for the benefit of international criminal syndicates. These operations also harm American consumers by exposing them to a range of threats such as identity theft, malware, viruses, and spyware. While widespread and persistent IP theft through foreign pirate

² Motion Picture Ass’n, *The American Motion Picture and Television Industry | Creating Jobs, Trading Around the World*, at 2 (Jan. 7, 2025), <https://www.motionpictures.org/research-docs/the-american-motion-picture-and-television-industry-creating-jobs-trading-around-the-world-6/>.

³ *Id.*

⁴ *Id.* at 1.

⁵ *Id.*

⁶ *Id.*

websites harms individual Americans and reduces investment and job creation across the creative industries, there is an effective remedy the United States can implement to significantly reduce harms to American creators. More than fifty countries around the world, including leading democracies, have adopted mechanisms to block access to digital pirate sites, and Congress can take similar action to meaningfully protect America’s creative economy and consumers.

AI and U.S. Global Leadership

Regarding the development of artificial intelligence, respect for copyrighted works and other intellectual property must remain a central pillar of our nation’s AI policies, both how we facilitate innovation domestically and how we address the global race for AI leadership among countries around the world. MPA recently submitted comments⁷ in response to the Office of Science and Technology Policy’s Request for Information on the Development of an Artificial Intelligence Action Plan (“RFI”).

In formulating AI policy, Congress and the Administration should aim both to advance America’s global leadership in AI technology innovation as well as maintain the preeminent position of the motion picture industry and other parts of the creative sector. Such a policy will be key to any successful effort to, in the words of the White House’s announcement of the RFI, “promote human flourishing, economic competitiveness, and national security.” This means that there should be no blanket AI exception to our strong copyright laws.

MPA acknowledges the enormous possibilities for AI in the motion picture and television industries and we favor a global regulatory environment that: 1) clearly acknowledges the importance of safeguarding the intellectual property of America’s creators through strong IP laws; 2) ensures that the course of AI innovation works for the millions of Americans who make their living in the creative industries, many of whom are employed by MPA’s members; and 3) maintains the nation’s global leadership in both the creative and innovation industries.

II. PIRACY LANDSCAPE

While the internet has revolutionized the way people consume creative content and brought about innovative new ways to create and disseminate copyrighted works, it has also facilitated an exponential increase in piracy. Although piracy existed well before the internet became a common staple in homes and businesses, the problem as it exists today is significantly more pervasive, sophisticated, and difficult to address. The websites and services engaged in piracy consist of organized, illicit, for-profit operations, not teens on a lark. And the problem only continues to worsen.

In 2019, U.S.-produced movies were illegally downloaded or streamed 26.6 billion times, and U.S.-produced television episodes were illegally downloaded or streamed 126.7 billion

⁷ Comments of the Motion Picture Association in Response to OSTP Request for Information on the Development of an Artificial Intelligence (AI) Action Plan, (Mar. 14, 2025), <https://www.motionpictures.org/policy-statement/mpa-comments-in-the-matter-of-request-for-information-on-the-development-of-an-artificial-intelligence-ai-action-plan/>.

times.⁸ And in 2022, there were an estimated 191.8 billion visits to movie and TV piracy sites globally.⁹ Piracy is not a victimless crime, and this data represents more than just lost revenue. It represents the real-world impacts on the U.S. economy, jobs, and every-day consumers. Piracy of filmed entertainment costs the U.S. economy \$29.2 billion and over 230,000 jobs annually.¹⁰ In addition, piracy services can directly threaten consumers' personal and financial security, including making consumers more susceptible to credit card and identity theft, as well as malware including viruses, malicious ads and pop-ups, and ransomware. Indeed, these illegal services present themselves as legitimate and often look and feel that way, inducing well-meaning consumers to expose themselves to such dangers.

To keep up with the continued increase in piracy, the motion picture industry expends tremendous time and resources addressing online piracy on a global basis. Through our affiliated organization, the Alliance for Creativity and Entertainment (“ACE”), MPA deploys nearly 100-full time professionals around the world who investigate and act against established and emerging online threats. Our enforcement efforts through ACE and MPA include both takedowns of infringements that occur on legitimate websites and platforms as well as more aggressive action against websites engaged in open, defiant piracy of U.S. companies' intellectual property. It's within this latter context that site-blocking measures are not only appropriate but a critical part of addressing this pernicious and persistent problem.

Over the course of any given year, our industry collectively sends millions of takedown notices to online intermediaries to have infringing copies of its creative content removed.¹¹ However, several factors—including the rapid pace at which infringing content is posted and re-posted online, modern internet speeds that dwarf those of the nascent internet of the 1990s, and case law that has read out or misinterpreted vital provisions of the Digital Millenium Copyright Act (“DMCA”)—have drastically diminished the effectiveness of the DMCA as an enforcement mechanism. As a result, those millions of takedown notices by themselves ultimately have little lasting effect on the widespread availability of infringing content that persists online. Without a notice-and-staydown regime, content that is removed in response to takedown notices is instantly replaced—a phenomenon commonly known as the “Whac-A-Mole” problem. While the user-posted content at issue with DMCA takedown notices is a different sort of problem than acts of commercial piracy, understanding the amount of time and resources we devote to infringing content on otherwise legitimate websites helps paint a fuller picture about our efforts to protect our members' content in the online ecosystem.

With regard to full-fledged piracy operations—whose nefarious and intentional behavior typically make them unsusceptible to enforcement through the DMCA's notice-and-takedown

⁸ See David Blackburn, et al., *Impacts of Digital Video Piracy on the U.S. Economy*, at ii (2019), <https://www.theglobalipcenter.com/wp-content/uploads/2019/06/Digital-Video-Piracy.pdf>.

⁹ All. For Creativity & Ent., *What Do We Know About 2022 Movie & TV Piracy Trends Worldwide*, <https://www.alliance4creativity.com/wp-content/uploads/2023/12/WDWK-2022-worldwide-071223.pdf>.

¹⁰ Blackburn, *supra* note 8, at ii.

¹¹ In calendar year 2015, MPA members sent notices pertaining to more than 104.2 million links to websites devoted to search and content-hosting. See Comments of the Motion Picture Association of America in response to U.S. Copyright Office Section 512 Study: Notice and Request for Public Comment, at 2 (Apr. 1, 2016), https://www.motionpictures.org/wp-content/uploads/2018/03/LF_Motion_Picture_Association_of_America_Inc_-_First_Round_Comments.pdf.

regime—our tactics also include cease-and-desist letters, civil litigation, site blocking, and criminal referrals to law enforcement. However, piracy remains a persistent and evolving problem despite the extensive resources the creative industry devotes to combatting it.

As business models for distributing legitimate content have advanced and expanded over the years, so too have methods for distributing pirated content. Content thieves provide or administer easy-to-use online piracy websites, apps, and services to distribute infringing content, usually for monetary gain. These sites and services often have the look and feel of legitimate content distributors, luring unsuspecting consumers into piracy. Some of the most popular types of illegal piracy services are described in an appendix to this testimony.

III. ECONOMIC AND CONSUMER HARM FROM PIRACY

The effects of piracy reach far beyond the MPA’s member companies; the many individuals who depend for their livelihoods on the creation and distribution of motion pictures and television programs are harmed in direct and tangible ways by the lost revenue that results from this illicit activity. Indeed, digital video piracy has been estimated to result in losses to the U.S. economy of between 230,000 and 560,000 jobs.¹²

Piracy also negatively impacts employees’ income and benefits, those received during employment, as well as in retirement.¹³ “[C]reative professionals rely on copyright protections and royalty or residual payments to make a living, provide healthcare for their families, and retire with security.”¹⁴ Piracy “reduces the real earnings of professionals already working in creative industries,” including “compensation if the material is used beyond its original exhibition.”¹⁵ Importantly, these harms from piracy affect the MPA’s members’ heavily unionized workforce. As a representative of the International Alliance of Theatrical Stage Employees (“IATSE”) recently stated:

While IATSE members do not own the copyrights to the works we help create, our livelihoods depend on collectively bargained contractual residuals paid to our health and pension plans when the copyrights for those audiovisual works are licensed to others over the life of a work.... The theft of copyrighted works—domestically and internationally—threatens our hard-won health care benefits and retirement security.¹⁶

¹² See Blackburn, *supra* note 8, at 14.

¹³ See Dep’t for Prof’l Employees, *Intellectual Property Theft: A Threat to Working People and the Economy* | 2021 Fact Sheet, at 3 (Oct. 25 2021), <https://static1.squarespace.com/static/5d10ef48024ce300010f0f0c/t/6177099c283f42475e62bc77/1635191196820/2021+IP+theft+fact+sheet.pdf>.

¹⁴ *Id.* at 2.

¹⁵ *Id.* Residuals are of particular importance because they provide income stability during the periods when individuals are not actively employed on the production of a creative project.

¹⁶ *AI Insight Forum: Transparency, Explainability, Intellectual Property, & Copyright, AI Insight Forum Before the Seventh Bipartisan Senate Forum On Artificial Intelligence*, 118th Cong. 2 (Nov. 29, 2023) (written statement of Vanessa Holtgrewe, Assistant Dir., Motion Picture & Television Department, IATSE), <https://www.schumer.senate.gov/imo/media/doc/Vanessa%20Holtgrewe%20-%20Statement2.pdf>.

Local and state economies are also impacted by the piracy of film, television, and streaming content. In 2023, there were \$21 billion in payments made by MPA member companies to more than 194,000 local businesses located across the United States.¹⁷ On average, location shoots for major motion pictures contribute \$670,000 per day to the local economy, and \$26.7 million in local wages for a single television series.¹⁸ The industry also contributes significantly to federal and state tax revenue. In 2023, \$38 billion in public revenues were generated from sales taxes on goods, state income taxes, and federal taxes including income tax, unemployment, Medicare and Social Security, based on direct employment in the industry.¹⁹ Additionally, \$6.2 billion in public revenues were generated from corporate income taxes.²⁰ Piracy threatens these contributions to the U.S. economy.

Piracy services can also directly threaten consumers' personal and financial security. In 2023, Digital Citizen's Alliance ("DCA") investigated the impact of visiting and signing up for illegal piracy streaming services. First, DCA signed up for twenty IPTV services using a clean credit card. Within a few weeks of subscribing, the credit card received unknown charges from China, Singapore, Hong Kong, and Lithuania.²¹ This result was consistent with the findings of the DCA's survey of 2,330 Americans about their experience with piracy services. Of those surveyed, thirty-three percent admitted to using a piracy website at least once within the past year, with ten percent admitting to paying for IPTV subscriptions.²² Consumers who used a credit card to pay for an IPTV subscription were four times more likely to experience a breach than those who never visited a piracy website (seventy-two percent of those who purchased an IPTV service compared to eighteen percent who did not).²³ In this respect, piracy operators "are helping fuel an explosion of credit card and other identity-theft-related crimes. According to the Federal Trade Commission, Americans lost \$5.8 billion from such fraud in 2021, the last year for which there is confirmed data. That fraud was more than double what occurred in 2020."²⁴

The same DCA survey also revealed that consumers who visit piracy sites are more susceptible to identity theft and malware including viruses, malicious ads and pop-ups, and ransomware. Specifically, consumers who visited piracy sites are more than four times more likely to report being a victim of identity theft (forty-four percent of those visiting piracy sites compared to ten percent for those who did not) and five times more likely to report having an issue with malware over the last year (forty-six percent of those visiting piracy sites compared to nine percent for those who did not).²⁵

¹⁷ See Motion Picture Ass'n, *supra* note 2, at 2.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Digit. Citizens All, *Giving Piracy Operators Credit: How Signing Up for Piracy Subscription Services Ratchets Up the User Risk of Credit Card Theft and Other Harms*, at 1 (2023), <https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/Giving-Piracy-Operators-Credit.pdf>.

²² *Id.* at 10-11.

²³ *Id.*

²⁴ *Id.* at 2.

²⁵ *Id.* at 11.

IV. CHALLENGES WHEN ADDRESSING PIRACY

There are several factors that have facilitated the proliferation of online piracy, including the ease of discoverability of piracy services, increased difficulty for consumers differentiating between illegal and legal services, the availability of programmatic ad revenue and more payment options for illegal subscription services, and lower barriers to entry for piracy operators. In addition to these challenges, there are also a number of hurdles that act as barriers to adequate enforcement.

One of the most significant challenges to addressing piracy is the global nature of piracy networks. While laws around the world aimed at combatting piracy have limited jurisdiction, piracy does not respect national boundaries. This means that the most egregious pirates are able to profit from stolen content and evade the laws of the United States by strategically choosing to operate from within countries that do not provide effective remedies against piracy. But because the internet is worldwide, the impact and scope of these piracy operations are not limited to the borders of any one jurisdiction—they too are worldwide. However, jurisdictional limits prevent us from holding the operators of these websites accountable either criminally or civilly, and instead, they are able to continue to exploit the content of our members for significant financial gain without recourse.

Online enforcement efforts are rendered more difficult if intermediaries fail to take adequate steps to ensure their services are not being used to facilitate copyright infringement, a problem compounded by the fact that most website operators operate anonymously and outside the boundaries of the law. Moreover, certain intermediaries lack adequate knowledge of their customers, and the law allows piracy operators to provide fake, incomplete, or unverified information in signing up with domain name providers, hosting providers, advertising networks, and others within the online ecosystem. Many copyright infringing sites utilize reverse-proxy services and content delivery networks to mask their internet protocol (“IP”) address—i.e., the internet location of their server—and the hosting provider of their website, so as to thwart enforcement efforts and operate in anonymity.

This problem is further exacerbated by diminished access to WHOIS data, which contains basic contact details for holders of internet domain names. In recent years, domain name registries and registrars have restricted access to WHOIS data based on a misinterpretation of the European Union’s General Data Protection Regulation (“GDPR”). The GDPR does not apply to non-personal information; and, even in the case of personal information, the regulation allows disclosure for legitimate interests such as public safety, law enforcement and investigation, enforcement of rights or a contract, fulfillment of a legal obligation, cybersecurity, and preventing fraud. The MPA and its members have previously raised the need for the Internet Corporation for Assigned Names and Numbers (“ICANN”), which administers the domain-name system, to restore access to WHOIS data and urge the USPTO to address this issue further with ICANN.

V. NO-FAULT JUDICIAL BLOCKING AS A REMEDY

Online piracy is a complex issue that requires a multipronged solution. In addition to government prioritization of enforcement and cooperation from intermediaries, we should learn from the experiences of our global partners and implement tactics that have proven effective in other jurisdictions. As methods for distributing pirated content continue to evolve, so too must our collective response. It is imperative that new enforcement methods and technologies are developed to address the evolving piracy landscape and that other stakeholders in the internet ecosystem take a more active role in ensuring that their services are not used to facilitate these criminal organizations' activities.

MPA's experience with no-fault injunctive relief, which includes site blocking, since the early 2010s has led us to the firm conclusion that it is the most effective remedy available to combat piracy by websites based in jurisdictions where direct enforcement action is not possible. Those countries that have implemented no-fault injunctions to disable access to structurally infringing websites have demonstrated through clear evidence and multiple years of data that this remedy is effective in reducing visits to blocked piracy sites and causes users to change their behavior and migrate to legal, paid video services. It is now time for Congress to consider providing express authority for a no-fault injunctive-relief regime that will give rights holders what more than a decade of experience around the globe has shown is an effective tool to address piracy.

1. How Judicial Blocking Works

In typical copyright litigation, a court first determines whether the defendant (e.g., a pirate site) has violated the plaintiff's rights. If the defendant has been found liable for copyright infringement, the court may then order that defendant to cease its infringement, as well as order other remedies, including the payment of money damages.

A case under a no-fault regime proceeds differently. The copyright owner typically does not "sue" a pirate site (or any other entity) in the traditional sense, or seek damages for copyright infringement. Rather, it merely seeks for the infringement to stop, and, without assigning blame or fault, seeks relief directed at those best positioned to halt the infringement, such as intermediaries through which the pirate site connects to users.

The piracy site's operation in almost all cases is happening offshore, anonymously and out of reach of the courts where the no-fault action is brought. The intermediaries (e.g., the pirate site user's internet service provider) are not "defendants" as in typical litigation. They are subject to orders not because they are engaged in wrongdoing, but only because they are best positioned to stop the infringement. To emphasize, in such a process, the intermediaries are not accused of copyright infringement, and the court does not hold them liable or order them to pay any damages to the copyright owner that brought the action. Of course, it is incumbent on the copyright owner first to prove to the court²⁶ that the target online location—the alleged piracy

²⁶ In most countries that have enacted no-fault injunctive-relief regimes, it is the courts that issue blocking orders. Judicial site blocking occurs in both common law jurisdictions, such as the United Kingdom, Australia, Singapore,

site—is dedicated to infringing copyright. If that is proven, then the court may issue the order directing the intermediaries to disable access to the site. Most jurisdictions around the world require rightsholders to bear responsibility for identifying and continuing to monitor the infringing nature of blocked sites, while intermediaries handle implementation of the order in the manner they deem technically appropriate.

No-fault injunctive-relief processes do—and MPA agrees must—provide due process protections for all affected parties. The accused pirate sites are, whenever reasonably possible, notified of the action and have the opportunity to appear in court and contest such designation. Intermediaries to which blocking orders may be issued are also notified and may appear to oppose the order. And, once the court finds that the site is dedicated to infringement, it takes into consideration various factors in determining whether to issue the blocking order, including potential burden on the intermediaries and whether disabling access to the site will have a negative impact on any party (including, e.g., the public’s interest in accessing non-infringing material).

Through careful adjudication, seeking narrowly tailored and no-fault relief against only egregious infringing sites/services, and through strict adherence to the rule of law, rights holders in countries where site blocking exists have ensured precedent that strikes the proper balance between protection of copyright from those who aim to profit off piracy, and respecting the rights of those affected by blocking orders, including accused infringers, intermediaries, and the public at large. Precedents in judicial jurisdictions have progressed incrementally to address issues such as “pirate brand” criminal organizations that quickly migrate and switch domains, locations, operations, servers, etc. to circumvent court orders.

2. Judicial Blocking Is Effective

The evidence shows that site blocking is effective both in reducing traffic to pirate websites and increasing the use of legitimate services. A site-blocking order applicable to the main access providers in a given country effectively reduces traffic to the targeted piracy domains in the period after blocking is implemented. For example, blocking fifty-three piracy websites in the United Kingdom caused an eighty-eight percent drop in visits to the blocked sites and an eighty to ninety-five percent drop across user groups in other waves.²⁷ Additionally, analysis in Australia, Portugal, and South Korea found average drops in visits to blocked sites of between sixty and ninety percent.²⁸

and India, and in civil law jurisdictions such as Spain, Denmark, and France. In other countries, no-fault relief is granted by administrative agencies, which are authorized by statute to issue orders to intermediaries to disable access to a structurally infringing site. Such administrative site blocking sometimes occurs in common-law countries like Malaysia but is more common in civil-law countries like Italy and Indonesia.

²⁷ Brett Danaher et al., *The Effect of Piracy Website Blocking on Consumer Behavior*, 44 MIS QUARTERLY 631, 637 (2020), <https://www.cmu.edu/entertainmentanalytics/documents/effectiveness-of-anti-piracy-efforts/uk-blocking-misq.pdf>.

²⁸ Motion Picture Ass’n, *Measuring the Effect of Piracy Website Blocking in Australia on Consumer Behavior: December 2018*, at 4 (2020), <https://www.mpa-apac.org/wp-content/uploads/2020/02/Australia-Site-Blocking-Summary-January-2020.pdf>; Incopro, *Site Blocking Efficacy - Key Findings Australia*, at 2 (July 2018), <https://creativecontentaustralia.org.au/wp->

Site blocking also increases traffic to legitimate content sources among former users of the blocked sites, as shown by research in the United Kingdom and Australia.²⁹ In the United Kingdom, along with a decrease in usage of pirate sites, blocks caused a seven to twelve percent increase in usage of paid legal subscription streaming sites like Netflix.³⁰ It also caused an increase in new paid subscriptions.³¹ In Australia, in December 2018, 233 piracy domains were subject to blocking, the largest single wave of site blocking in the country at that point. For users of targeted sites, site blocking caused traffic to legal content viewing sites to increase by five percent following the December 2018 wave.³²

3. Judicial Blocking Does Not Produce Ill Effects

Nearly sixty countries have successfully implemented site blocking, without jeopardizing free speech or civil liberties.³³ Around the globe, courts and governments have ensured the site-blocking remedy is used judiciously to target only the most blatantly infringing sites and is implemented with extensive safeguards and due-process protections to ensure adherence to principles of free expression and the rule of law. The legal precedents ensuring compatibility with fundamental rights have been established at the highest levels (for example, and notably, the Court of Justice of the European Union in the *Kino.to* decision).³⁴ Following the confirmation of such principles, ISPs and governments alike are now supporting the remedy as a proportionate and reasonable way to counter the wholesale piracy committed by pirate sites. Over the years, many cooperative arrangements between MPA and ISPs have emerged, often supported by their governments via codes of conduct. Examples include the U.K., France, Germany, Denmark, Netherlands, and Sweden.

In fact, in 2023, the European Commission adopted the EU Recommendation on combatting live-events piracy, encouraging EU member states to make available in their national legislation efficient dynamic site-blocking procedures and calling on all stakeholders to work

[content/uploads/2021/03/INCOPROAustralianSiteBlockingEfficacyReport-KeyFindingsJuly2018FINAL.pdf](#); Incopro: *Site Blocking Efficacy in Portugal (September 2015-October 2016)*, at 2 (May 2017), <https://www.incoproip.com/wp-content/uploads/2020/02/Site-Blocking-and-Piracy-Landscape-in-Portugal-May-2017.pdf>. Motion Picture Assoc’n, *MPA Study on Site Blocking in Korea: 2016*, at 1 (2017), https://www.mpa-apac.org/wp-content/uploads/2018/01/MPAA_Impact_of_Site_Blocking_in_South_Korea_2016.pdf.

²⁹ Danaher, *supra* note 27, at 646; *Website Blocking in Australia*, *supra* note 28.

³⁰ Danaher, *supra* note 27, at 633, 648-9.

³¹ *Id.* at 631, 646.

³² *Website Blocking in Australia*, *supra* note 28, at 1, 7.

³³ See Nigel Cory, *A Decade After SOPA/PIPA, It’s Time to Revisit Website Blocking*, Info. Tech. & Innovation Found. (2022), <https://www2.itif.org/2022-revisiting-website-blocking.pdf>.

³⁴ European Court of Justice, *UPC Telekabel vs. Constantin*, 27 March 2014 (Case C-314/12). In other jurisdictions, such as India, the courts have taken up the question of whether seeking blocking of a website dedicated to piracy makes one an opponent of a free and open internet, answering, “advocating limits on accessing illegal content online does not violate open Internet principles,” and “[t]he key issue about Internet freedom, therefore, is not whether the Internet is and should be completely free or whether Governments should have unlimited censorship authority, but rather where the appropriate lines should be drawn, how they are drawn and how they are implemented.” Delhi High Court, *UTV Software Communications Ltd. and Ors. v 1337x.to and Ors. (consolidated)*, CS(COMM) 724/2017 & injunction applications 12269/2017, 12271/2017, 6985/2018, 8949/2018 and 16781/2018.

together cooperatively to block access to infringing live event streams (sports).³⁵ Governments in various EU member states—Italy, Portugal, and Germany, among others—and in the APAC region—Australia, India, and Singapore—have voiced support for site blocking.³⁶

In sum, the past decade’s experience with site blocking is a true success story. These developments represent examples of real collaboration between online intermediaries and rights holders, to the ultimate benefit of the entire internet ecosystem. There is no reason to believe that the successes with site blocking outside the U.S. could not be replicated here, consistent with our legal system and values.

VI. CONCLUSION

American innovation and economic leadership are driven in large part by the foundation laid centuries ago to recognize the value of intellectual property protection in the Constitution. Global threats to IP, including digital piracy of copyrighted works, are persistent and harm American consumers and content creators. But, proven and effective remedies are available to protect innovators, consumers, and the many downstream jobs that the creative industries support. We urge Congress to consider reasonable and tailored judicial blocking relief as a meaningful tool to combat digital piracy and its negative impact on the creative industries and our economy as a whole.

³⁵ See European Commission, *Commission Recommendation of 4.5.2023 on combating online piracy of sports and other live events* (2023), <https://digital-strategy.ec.europa.eu/en/library/recommendation-combating-online-piracy-sports-and-other-live-events>.

³⁶ See Cory, *supra* note 33, at 5-6, 11 (quoting government officials from Australia, Brazil, France, Germany, India, the Netherlands, the Philippines, Singapore, Spain, who have spoken out in support of their respective website-blocking frameworks). For example, Mitch Fifield, Minister for Communications & the Arts, said in 2018: “[W]here a site exists purely to facilitate piracy, and with judicial oversight playing a crucial role, the website blocking scheme has been very successful in further reducing copyright infringement.” In India, Justice Manmohan Singh, Delhi High Court, said in his seminal UTV judgment on April 10, 2019: “[W]ebsite blocking in the case of rogue websites, like the defendant-websites, strikes a balance between preserving the benefits of a free and open Internet and efforts to stop crimes such as digital piracy.” In Singapore, the Intellectual Property Office of Singapore remarked on July 19, 2018: “We are glad to see rights holders utilizing the [site blocking] legal framework that we have put in place to protect their copyright works.”