

August 16, 2017

Dear Ambassador Lighthizer,

The undersigned groups represent the interests of a diverse group of small and medium businesses (SMEs) and individual creators in the creative fields. What unites us is a reliance on meaningful and effective copyright laws. Together, the core copyright industries contribute over \$1.2 trillion to U.S. GDP, employ 5.5 million workers, and contribute a positive trade balance—and SMEs and individual creators make up a significant part of these industries.

The internet's global reach has made copyright protections and enforcement increasingly important to free trade agreements. The small and medium businesses we represent are often on the forefront of exploring new models for making creative works available on a global scale. Widespread copyright infringement and unduly broad limitations to copyright protection distort overseas markets and undermine the ability of our members to successfully and fairly engage in commerce.

The effort to renegotiate NAFTA provides an opportunity to modernize the copyright provisions of the agreement for the digital age and establish a template for future agreements. We urge you to look beyond the failed Trans-Pacific Partnership (TPP) and to seek the highest standard of protection for businesses and creators that rely on strong copyright to compete successfully overseas.

Specific priorities for small and medium enterprises, as well as individual creators, include the following:

- **Strong and meaningful copyright protection and enforcement.** The agreement should recognize the full scope of copyright rights, including making available, and remedies such as injunctive relief and statutory damages.
- **Effective enforcement provisions.** Trade agreements are critical to fostering legitimate online marketplaces. A modernized NAFTA should respond to the challenges facing creators by including provisions to ensure effective enforcement and requiring legal protections for technological protection measures and rights management information.
- **Appropriate limitations and exceptions.** NAFTA should reinforce the “three-step” test for limitations and exceptions that has been the international standard for decades. The three-step test strikes the appropriate balance in copyright, and any language mandating broader exceptions and limitations only serves as a vehicle to introduce uncertainty into copyright law, distort markets and weaken the rights of the small and medium businesses and creators we represent. For that reason, we strongly urge USTR to not include “balance” language similar to what appeared in the TPP or any reference to vague, open-ended limitations.

- **Incentives for service providers to cooperate with copyright owners in addressing online infringement.** Few SMEs have the means to devote resources to policing online infringement, and we therefore rely on service providers taking reasonable steps to minimize piracy that occurs on their platforms. To promote incentives for service providers to cooperate with copyright owners to address online infringement, the copyright provisions in NAFTA should establish appropriate standards for intermediary liability as well as appropriate safe harbor protections for intermediaries. We urge negotiators to provide for safe harbor protections in broader terms than how they've appeared in recent trade agreements. Congress and the U.S. Copyright Office are currently reviewing U.S. copyright law, and we want to make sure lawmakers have the flexibility to address shortcomings in domestic safe harbor provisions.

We thank you for your consideration of our priorities and look forward to working with you further as negotiations progress.

Sincerely,

American Association of Independent Music
American Photographic Artists
American Society of Journalists and Authors
American Society of Media Photographers
Artists Rights Society
Association of Independent Music Publishers
Authors Guild
Church Music Publishers' Association – Action Fund
Digital Media Licensing Association
Graphic Artists Guild
Nashville Songwriters Association International
National Press Photographers Association
Recording Academy
SAG-AFTRA
Society of Children's Book Writers and Illustrators
Songwriters Guild of America
Songwriters of North America
Textbook & Academic Authors Association
Western Writers of America