



Advancing a Pro-Innovation, Pro-Creator, Pro-Consumer Copyright Agenda

Re:Create is a coalition founded to engage policymakers and the public on the positive impact the internet has had on creativity and innovation over the last 25 years. Collectively, the [members of Re:Create](#) represent over 100,000 libraries visited by the public 1.5 billion times per year; fight censorship by repressive regimes globally; provide platforms that enable lawful music and video content to reach a global audience; create imaginative literary and visual works; invest in new startups and entrepreneurs; and generate billions of dollars in revenue for the motion picture, recording, publishing and other content industries.

Copyright law and its regulation of content creation and dissemination have a large impact on all of us. Attempts to improve the effective uses of U.S. copyright law serve an important purpose, but in doing so we must remain mindful that an over-burdensome approach stifles this new creative revolution. The U.S. government should seek the appropriate balance in copyright law. To unlock the fullest potential of the innovative and creative spirit of all Americans, we compiled our balanced copyright priorities for 2023:

The Constitutional purpose of copyright is to “promote the Progress of Science and useful Arts”. As enshrined in the Constitution by the Founding Fathers, copyright is intended to advance creativity, innovation and access to information for the benefit of the American people. Rightsholders receive a “limited” exclusive use in return. All copyright-related policies under consideration must adhere to these critical tenets.

Fair Use plays an essential role for free expression, creativity and innovation. A big part of the U.S. global leadership on creativity and innovation is due to fair use - an important doctrine of copyright law that allows certain uses of copyrighted works without the permission of the author. User-generated content depends on fair use, as do schools, libraries, journalists, and religious institutions. Fair use plays a major economic role in the modern economy. Without fair use, copyright holders would be able to abusively shut down criticism, analysis and parody, and would themselves be denied the ability to draw on the rich history of their genres. Fair use allows copyright law to co-exist with the First Amendment. Congress should continue to support and strengthen fair use. Some core issues we are currently monitoring include:

- Attempts to force licensing of fair uses or even uncopyrightable content. This is what the Journalism Competition and Preservation Act (JCPA) would do, forcing a complete end run around core free expression and copyright law. Re:Create opposes the JCPA.
- The important role fair use will play for a robust and competitive artificial intelligence (AI) marketplace, as machine learning depends on it. Forcing a license for machine learning would

lead to a massive tax on AI and only allow the largest and deepest pockets to invest in the technology.

Safe Harbors for Online Content Enable the Internet. The [Digital Millennium Copyright Act](#) (DMCA) set the rules of the road for online copyright issues. Under Section 512, it set up a notice and takedown regime that has worked well. It allows established platforms like YouTube and Instagram as well as new startups to develop tools and partner with creators in preventing copyright infringement. It has enabled user-generated content to thrive. Re:Create supports Section 512, and the open creative revolution it has unlocked. Attempts to change this system to a notice-and-stay-down system or site blocking at any layer of the Internet will threaten the future of user-generated content online and hurt the open internet for all.

The Law is not copyrightable. This is a core democratic principle - our government should ensure the law is available to all in an easily accessible manner. We support any legislation that will further grant open access to our law. Legislation like the [PRO Codes Act](#) does the opposite. It would grant a copyright in the law for the first time and allow a private organization to control who can access our laws. Re:Create [strongly opposes](#) this back-door attempt to make the law copyrightable.

Re:Create supports the right to repair devices you own. Copyright law has been abused by many software rights' holders to prevent access to and repair of anything that has this software in it. Repairing cars, tractors, phones, washing machines, refrigerators and anything else that has software in it requires permission and often high licensing fees for the right to repair the device. Farmers struggle to repair their own tractors and small business repair shops are often unable to support their customers at lower prices.

Re:Create supports library and schools access to Digital Works. Libraries and schools depend on the first sale doctrine. This allows the owner of a copy of a copyrighted work to lend that copy without the rightsholder's authorization. Unfortunately, digital works are rarely available for purchase - instead they are licensed. This has had an outsized effect on the cost of obtaining them. As an example, it often can cost a school or library up to 1000% more for an e-book than a corresponding hard copy. Re:Create also supports a federal solution that would prevent license agreements from overriding library rights and impeding our mission-critical activities.

We thank you for your time and attention to all of these matters and look forward to working with you over the next two years to promote impartial and balanced copyright policy for every sector of society.

Sincerely,

Joshua Lamel
Executive Director
Re:Create