



POSITION PAPER

U.S. Copyright Office Modernization: Deposit Requirements

For works published in the United States, [Section 408](#) of the Copyright Act requires an applicant to deposit two copies of a work with the Copyright Office when registering their work with the Copyright Office. These copies must be “best editions,” which is broadly defined as the edition that is published in the United States at any time before the date of deposit that the Library of Congress determines to be most suitable for its purposes. The Library of Congress establishes [criteria](#) to determine what is the best edition for different types of copyrighted works, but these criteria usually require physical copies.

Deposit of Electronic Copies Should be Permitted

The Library of Congress and the Copyright Office should expand the options for submitting electronic deposits because it would be beneficial to the Library, the Copyright Office, and to rightsholders. Allowing deposit of electronic copies would:

- Be easier and less expensive for the Library and the Office to store than physical copies, which take up considerably more space;
- make it easier for the Library to provide access to deposit copies;
- expedite the Copyright Office’s examination process because electronic copies are easier to examine than physical copies; and
- reduce the burden and expense on rightsholders because electronic copies are generally less expensive and complex for rightsholders to submit.

Deposit Security

Alongside permitting electronic deposits, the Copyright Office must work to fully adopt and implement an impenetrable commercially secure system to prevent cyberattacks that might result in unauthorized access to deposit copies and/or alteration of those copies or the associated registration data. For more information about the Copyright Alliance position on deposit security, see the position paper on [U.S. Copyright Office Modernization: Deposit Security](#).

Limitations and Exceptions to Electronic Deposit Rules

There are several caveats to our recommendation that the Copyright Office expand the options for submitting electronic deposits. These include:

- options for the deposit of electronic copies should only be expanded if and when the Library and the Copyright Office have commercially effective security measures in place. (See our position paper on deposit security for more);
- a wide range of different formats should be accepted because limiting the type of acceptable formats will be burdensome on applicants and dissuade them from registering. No rightsholder should be required to create a work in a particular file format solely for the purposes of making a deposit copy;
- electronic deposit copies should be an option but should not be required in all cases. There are many instances where the deposit of an electronic copies is not feasible, such as when there is no digital version of a work;
- requests for special relief to deposit which allow deposits of different version/formats should continue to be made available to rightsholders; and
- any electronic-deposit registration system should take into account the rightsholder's current production processes.

Special Deposit Requirements are Needed for Dynamic Content

Registering dynamic content, like websites and online newspapers, is extremely difficult, if not impossible, due in part to rigid deposit requirements that have failed to keep pace with market realities and new industry business practices. It is essential that the Copyright Office improve the process for registering dynamic website content by updating the deposit and best edition requirements for these types of works. Without an efficient system to register (and deposit copies of) dynamic web content, rightsholders of this content, like press publishers, are unable to register and therefore unable to enforce their rights against those who unlawfully copy their content.