



**HEARING:** The U.S. Copyright Office: Customers, Communities, and Modernization Efforts

**COMMITTEE:** Committee on House Administration

**HEARING DATE:** June 26, 2024, 10:30 a.m.

The News/Media Alliance (“N/MA”) respectfully provides this written submission in relation to the United States Copyright Office’s operational activities, particularly its registration system.

The News/Media Alliance is a nonprofit organization representing the newspaper, magazine, and digital media industries, and empowering members to succeed in today’s fast-moving media environment. N/MA represents over 2,200 diverse publishers in the United States and internationally, ranging from the largest news and magazine publishers to hyperlocal newspapers and digital-only outlets. Our membership accounts for nearly 90 percent of the daily newspaper circulation in the United States, over 500 individual magazine brands, and dozens of digital-only properties, all of whom rely on an effective copyright registration system and meaningful copyright protection for their continued investments in high-quality, reliable journalism and content that keep our communities informed, engaged, and entertained.

At a moment when news publishers face serious challenges by generative artificial intelligence (AI) models trained on media content without permission, it is urgent that the copyright registration system be updated to facilitate the registration of dynamically updated news websites. News publishers invest considerable time and resources in producing high-quality and trustworthy content, employing fact checking, corrections and clearance policies. On top of that, they must register their copyright claims to be able to enforce their rights, while lacking adequate administrative tools to do so for online content. Meanwhile, AI developers move first and ask for forgiveness later—all while reaping record valuations. This acknowledged agency administrative gap must be swiftly corrected so that the functioning of the registration system does not unintentionally influence AI public policy or contribute to the decline of a flourishing and free press.

As a result, we were glad to see the Copyright Office commit to a crucial step in correcting this imbalance, by proposing to create a new group registration option for updates the news websites last January. While the Office performs many vital public functions, registration is at the heart of agency operations. An effective and efficient copyright registration system is



needed for rightsholders to go to court or be eligible for statutory damages, and to facilitate predictability in private transactions. While print newspaper and magazine content can be registered with relative ease, practically speaking, publishers are unable to register their website content.

Under current regulations, to register online content, a publisher must submit a complete copy of their website with each and every news update, posing an unreasonable burden on both the publishers and the Office alike—and creating obstacles for publisher seeking to meaningfully protect their online content against infringers. This especially troubling with the proliferation of generative AI systems and models that both use publisher content as training material without compensation or authorization and then compete with publishers on output derived from their own content.

According to recent research, 86 percent of U.S. adults often or sometimes get their news from a smartphone, computer, or tablet.<sup>1</sup> In response, publishers of all types and sizes have developed their online offerings and invest in producing and publishing website content that is continuously updated. But despite publishers increasingly working in the real-time, online ecosystem, the copyright registration system for news content is stuck in an analog world. The proposed rule for news websites is a major positive step forward in fixing this issue and has been supported by a broad consensus of the stakeholders eligible to make use of the rule, urging swift adoption.<sup>2</sup> We thank Register Perlmutter for confirming at a recent Copyright Society meeting that the rule will be adopted this summer.

Getting the proposed rule past the finish line as soon as possible is vitally important for the American publishing industry. Each day without an effective way to register our members' content disadvantages online news websites against new threats by parasitic digital uses. In the digital environment, infringement takes place systematically at a massive scale—risking catastrophic consequences for far too many publishers, especially small, local outlets. We strongly believe that the Copyright Office must adopt the rule immediately, whether as a final rule as the Office may elect, or on an interim basis if necessary to put in place quickly.

As we look forward to increasing online news publishers' participation in the registration system, we also encourage the Copyright Office to build on its history of transparency and stakeholder engagement and ensure publishers can ready their own operational processes.

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<sup>1</sup> PEW RESEARCH CENTER, News Platform Fact Sheet (Nov. 15, 2023), available at <https://www.pewresearch.org/journalism/fact-sheet/news-platform-fact-sheet/>.

<sup>2</sup> N/MA's [comments](#) in response to the [Notice of Proposed Rulemaking](#) suggested only minimal changes, and none that would pose a delay in adoption. These changes, and the urgent need to adopt the rule, were supported by many other stakeholders, and endorsed in a [consensus letter](#) that included N/MA, The Association of American Publishers, The Authors Guild, Copyright Alliance, National Association of Broadcasters, and National Public Radio.

With this proposed rule, consultation is important for member publishers who must allocate resources, design processes, and align vendors in order to hit the ground running once the rule is adopted. The Office and N/MA have a history of strong, constructive engagement, most notably creation of the group registration option for print newspapers, which involved discussion and pilots to iron out wrinkles and ensure the solution worked for publisher and agency needs and resources. We are hopeful the Office will offer similar dialogue with the new option for news websites.

We commend the Office for proposing the option to group register updates to news websites and now urge the Office to adopt the rule immediately. The challenges faced by publishers in registering their content are largely operational issues that can be solved relatively easily but are extremely important for online news providers.

We appreciate the opportunity to present these views to the Committee.