

**Before the
United States Patent and Trademark Office
DEPARTMENT OF COMMERCE
Washington, D.C. 20230**

In the Matter of)
)
Request for Comments on Department of) Docket No. 130927852-3852-01
Commerce Green Paper, Copyright Policy,)
Creativity, and Innovation in the Digital)
Economy)

**COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (“NCTA”)¹ submits these comments in response to the Request of the Internet Policy Task Force (“Task Force”) for public comments and Notice of Public Meeting.² The Public Notice asks stakeholders to address several copyright policy issues identified in the Department’s Green Paper on *Copyright Policy, Creativity, and Innovation in the Digital Economy*,³ including “establishing a multi-stakeholder dialog on the notice and takedown system for removing infringing material from the Internet under the Digital Millennium Copyright Act (DMCA).”⁴ Recognizing that the DMCA’s notice and takedown system “has generally worked well with respect to traditionally hosted online content,”⁵ the Task Force nonetheless identifies certain concerns raised by both rights holders

¹ NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving more than 90 percent of the nation’s cable television households and more than 200 cable program networks. The cable industry is the nation’s largest provider of broadband service after investing over \$200 billion since 1996 to build two-way interactive networks with fiber optic technology. Cable companies also provide state-of-the-art competitive voice service to more than 23 million customers.

² Request for Comments on Department of Commerce Green Paper, Copyright Policy, Creativity, and Innovation in the Digital Economy, 78 Fed. Reg. 61337 (Oct. 3, 2013) (“Public Notice”).

³ Department of Commerce Internet Policy Task Force, *Copyright Policy, Creativity, and Innovation in the Digital Economy*, (July 31, 2013) (“Green Paper”), available at <http://www.uspto.gov/news/publications/copyrightgreenpaper.pdf>.

⁴ See Public Notice.

⁵ Green Paper at 102.

and ISPs regarding ways in which its operation “can be unwieldy or burdensome.”⁶ The Task Force proposes to address these concerns by “conven[ing] a multi-stakeholder dialog involving rights holders (both large and small), ISPs, consumer representatives and companies in the business of identifying infringing content, on how to improve the operation of the notice and takedown system.”⁷

NCTA’s members share the goal of detecting and deterring online piracy. The illegal distribution of copyrighted works online impedes the smooth functioning of the entire ecosystem, harming ISPs, copyright holders and customers alike. It can impose real burdens and costs on ISPs and copyright owners, and can contribute to network congestion and adversely impact users’ experiences online.

In 2011, in an effort to stem growing concerns with pirated content on the Internet, several leading ISPs and representatives of content owners entered into a Memorandum of Understanding that established the Copyright Alert System (“CAS”), an entirely voluntary educational initiative for copyright holders to notify consumers when their Internet access accounts are alleged to have been used illegally to download and share copyrighted content.⁸ To oversee the CAS, the participants established the Center for Copyright Information (“CCI”).⁹ CCI also assists customers in finding legal digital content online and educates them about the consequences of illegal P2P sharing. The participants have invested significant resources in ensuring a successful launch of CCI and the CAS.

⁶ *Id.* at 56.

⁷ *Id.* at 58.

⁸ Memorandum of Understanding dated July 6, 2011.

⁹ See Center for Copyright Information, *About CCI*, at <http://www.copyrightinformation.org/> (last visited Nov. 11, 2013) (describing the Center for Copyright Information as “a collaboration between the content community and Internet Services Providers (ISPs) to educate consumers about the importance of copyright protection and help them find better ways to enjoy digital content.”).

While still in its early stages of development, this voluntary cooperative initiative is an excellent example of how voluntary multi-stakeholder programs can help combat and address Internet piracy, and help direct consumers to the myriad legitimate avenues for obtaining copyrighted works. Moreover, because such collaborative voluntary programs are not constrained by government-imposed rules, procedures and requirements, they can be continually assessed, refined and adapted to best achieve their intended results without unduly burdening the interests of stakeholders on all sides of the digital ecosystem.

To the extent that the multi-stakeholder process can help facilitate the dialog among stakeholders regarding other initiatives to deter piracy, those initiatives will likely be improved. By providing a forum for the sharing of approaches and experiences, the multi-stakeholder process can both increase the effectiveness of such voluntary efforts and minimize their adverse effects on legitimate business activities. Indeed, such an approach is far preferable to a top-down effort or one that does not include all affected interests. NCTA therefore welcomes the Task Force's Public Meeting, and looks forward to reviewing and assessing the ideas and suggestions that are aired there and during the course of this proceeding.

Respectfully submitted,

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November 13, 2013