

April 4, 2024

Ms. Suzanne Wilson  
General Counsel and Associate Register of Copyrights  
U.S. Copyright Office  
101 Independence Avenue S.E.  
Washington, D.C.  
20559-6000

**Re: Notice of Proposed Rulemaking on Group Registration of Updates to a News Website  
(Docket No. 2023–8)**

Dear Ms. Wilson,

We are writing to you regarding the recent Notice of Proposed Rulemaking on Group Registration of Updates to a News Website (Docket No. 2023–8). Our organizations represent a wide range of creative industries – including over 90% of the newspaper industry and leading organizations representing authors, news organizations, publishers, broadcasters, and other copyright owners – and we all submitted comments to the U.S. Copyright Office in response to the NPRM in February. Together, the signatories include amongst them nearly all commenters who would be eligible to utilize the new registration option or otherwise be directly affected.

We write you in a show of unity because we all agree on the urgency of finalizing this rule immediately to enable the copyright law to function as intended, allowing media publishers and other copyright holders to gain access to courts to enforce their statutory rights. Enabling the efficient registration of dynamically updated web content is vital for meaningful enjoyment and enforcement of copyrights, especially considering new technologies and challenges, including the rise of artificial intelligence.

The proposed rule is an important step forward in enabling content creators to register their online content and should be adopted immediately. Collectively, we support the main issues identified by News/Media Alliance (N/MA), the Copyright Alliance, and others in their comments, namely:

- Broadening the definition of “news website” to cover publications broadly focused on specific subject matters;
- Including mobile app content in the scope of the rule;
- Removing the limitation to works made for hire (if technologically feasible); and
- Refraining from opining on the availability of statutory damages under Section 504(c)(1) of the Copyright Act when works are registered as part of collective works, especially in light of many courts’ adoption of the independent economic value test.

We broadly support N/MA's proposed line-edits (attached here as Appendix) on these issues in principle and urge the Office to swiftly move the rule forward with these changes (again, assuming the changes do not require a technological delay, in which case the Office should enact the rule promptly without pausing due to I.T.-related issues that can be taken up during modernization).

That said, our individual comments offer additional suggestions for improvement to this and other registration options, and we believe the Office should consider further aspects carefully following the adoption of this rule and subsequently request comment on additional suggestions. As important as these nuances are, none should delay the swift finalization and adoption of the rule. As stated above, time is of the essence. We hope this show of consensus and compromise by those stakeholders who are most affected by the proposed rule will encourage the Office to move forward with the rule.<sup>1</sup>

We thank the Office for your attention to this vitally important issue that is central to avoid imposing an impermissible formality on copyright owners. We are hopeful that the establishment of this group option will create positive precedent and momentum for wider improvements to registration options for online content, allowing creators to fully benefit from the protections afforded by the Copyright Act.

Sincerely,

Association of American Publishers (AAP)

The Authors Guild

Copyright Alliance

National Association of Broadcasters (NAB)

National Public Radio, Inc. (NPR)

News/Media Alliance (N/MA)

**cc:** Shira Perlmutter, Register of Copyrights and Director; Rob Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice

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<sup>1</sup> We note that other commenters expressed opinions largely aligned with the undersigned, including legal organizations that do not typically join industry letters (ABA and AIPLA), and that the record label commenters (RIAA and A2IM) did not oppose the substance of the rule, nor would they be eligible to make use of it. While we recognize that the National Writers Union (NWU) *et al.* do not support the rule without certain changes, the proposals discussed in this letter may go a long way in addressing their concerns, including by tackling the “two minor changes — removing the explicitly limiting qualifiers of ‘works made for hire’ and ‘news websites’” that they suggest could make the rule “the most significant mitigation of the burden of copyright registration since the creation of the World Wide Web thirty-five years ago.” NWU *et al.* at 3. Further, the recently adopted Group Registration for Short Online Literary Works option is already available for creators represented by the NWU.

## APPENDIX

### §202.4 Group registration.

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(m) Group registration of updates to a news website. Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that a group of updates to a news website may be registered with one application, the required deposit, and the filing fee required by § 201.3 of this chapter, with each update being registered as a collective work, if the following conditions are met:

**Version A – N/MA proposed edit:**<sup>2</sup> (1) *Definitions*. For the purposes of paragraph (m) of this section: (i) *News website* means a website **or a mobile application** that is designed to be a primary source of written information on current events, either local, national, or international in scope, that **may** contain a broad range of news ~~on all subjects and activities and is not limited to any specific subject matter~~ **or may be focused on a specific subject matter such as sports, travel, community affairs, technology, product reviews, or the arts.**

**Version B – N/MA proposed edit:** (1) *Definitions*. For the purposes of paragraph (m) of this section: (i) *News website* means a website **or a mobile application** that is designed to be a primary source of written information on current events, either local, national, or international in scope, that contains a broad range of news ~~on all subjects and activities and is not limited to any specific subject matter.~~

(ii) *Website* means a webpage or set of interconnected webpages that are accessed using a uniform resource locator (“URL”) organized under a particular domain name.

**(iii) *Mobile application* means a program created for a mobile device and operated by or for a publisher under a specific masthead or publication.**

(2) *Requirements for collective works*. Each update to the website must be a collective work, and the claim must be limited to the collective work.

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<sup>2</sup> N/MA prefers version A for clarity, however, we support the Office in first instance adopting the regulatory language that will facilitate the swiftest finalization of this rule.

(3) *Author and claimant.* Each collective work in the group must be **created or owned by the claimant including as** a work made for hire, and the ~~author and~~ claimant for each collective work must be the same person or organization.

(4) *Updates must be from one news website; time period covered.* Each collective work in the group must be published on the same news website under the same URL and they must be published within the same calendar month. The applicant must identify the earliest and latest date that the collective works were published.

(5) *Application.* The applicant must complete and submit the online application designated for a group of newspaper issues. The application may be submitted by any of the parties listed in § 202.3(c)(1).

(6) *Deposit.* (i) For each collective work within the group, the applicant must submit identifying material from the news website. For these purposes “*identifying material*” shall mean separate Portable Document Format (PDF) files that each contain a complete copy of the home page of the website **or the mobile application. In case a complete copy is technically unfeasible or unreadable due to the size or continuous nature of the home page, the applicant may submit a significant portion of the home page that demonstrates updates from the previous deposit copy.** Each PDF must show how the home page appeared at a specific point during each day of the calendar month when new updates were published on the website.

(ii) The identifying material must demonstrate that the home page contains sufficient selection, coordination, and arrangement authorship to be registered as a collective work. If the home page does not demonstrate sufficient compilation authorship, the deposit should include as many additional pages as necessary to demonstrate that the updates to the news website can be registered as a collective work.

(iii) The identifying material must be submitted through the electronic registration system, and all of the identifying material that was published on a particular date must be contained in the same electronic file. The files must be submitted in PDF format, they must be assembled in an orderly form, and each file must be uploaded to the electronic registration system as an individual electronic file (i.e., not .zip files). The file size for each uploaded file must not exceed 500 megabytes, but files may be compressed to comply with this requirement.

(7) *Special relief.* In an exceptional case, the Copyright Office may waive the online filing requirement set forth in paragraph (m)(5) of this section or may grant special relief from the deposit requirement under § 202.20(d) of this chapter, subject to such conditions as the Associate Register of Copyrights and Director of the Office of Registration Policy and Practice may impose on the applicant.

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(r) *The scope of a group registration.* When the Office issues a group registration under paragraph (d), (e), or (f) of this section, the registration covers each issue in the group and each issue is registered as a separate work or a separate collective work (as the case may be). When the Office issues a group registration under paragraph (c), (g), (h), (i), (j), (k), or (o) of this section, the registration covers each work in the group and each work is registered as a separate work. When the Office issues a group registration under paragraph (m) of this section, the registration covers each update in the group, and each update is registered as a separate collective work. For purposes of registration, the group as a whole is not considered a compilation, a collective work, or a derivative work under section 101, 103(b), or 504(c)(1) of title 17 of the United States Code.