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ARMED SERVICES
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VIA ELECTRONIC TRANSMISSION

December 16, 2020

Ms. Carolyn Roddy
Acting Deputy Assistant Secretary of Commerce for Communications and Information
National Telecommunications and Information Administration
United States Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Deputy Assistant Secretary Roddy:

I write you today regarding the need to appropriately tailor legal obligations in the digital creative ecosystem. This past year the Senate Judiciary Committee Subcommittee on Intellectual Property has undertaken an extensive review of the Digital Millennium Copyright Act (DMCA) of 1998, with a particular focus on the burden and balance of its obligations on online service providers (OSPs) and other tech companies.

As you may know, there is substantial disagreement among stakeholders, academics, public interest groups, and others over how to appropriately tailor legal obligations for OSPs. While there is general agreement that obligations should be tailored based on whether the OSP is "large" or "small," lawmakers lack the necessary metrics to appropriately define an OSP's size.

Good policy requires complete and accurate data. Lawmakers cannot enact reasonable policy regulating OSPs based on their size without first understanding how to best define an OSP's size. Accordingly, I request that the National Telecommunications and Information Administration (NTIA) conduct a study of online platforms and propose recommendations on how to characterize or categorize such platforms in the context of digital copyright law based on their reach, market impact, content moderation policy, and other relevant issues.

In conducting this study, I ask that NTIA engage with a broad and representative group of platforms of all sizes in order to collect data and information. I believe this approach—alongside a traditional notice and comment study—will encourage greater involvement and ensure participation among those who may not traditionally be engaged in Washington policy debates.

While the primary purpose of this requested study is to consider the responsibility of platforms under the anti-piracy provisions of the DMCA, this study should also be broad enough to address all of the current debates regarding platform size as it relates to content moderation, competition,

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and employment practices. Such a broadly applicable study will be helpful to lawmakers as we continue to consider how best to address the many outstanding issues regarding OSPs.

I ask that you complete this study by no later than July 31, 2021. Thank you in advance for your attention to this matter. I look forward to seeing the results of your study and to working with you on these issues in the coming Congress.

Sincerely,



Thom Tillis
Chairman

Subcommittee on Intellectual Property

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