

VRA Reaffirms Non-Endorsement of WIPO Implementation Act (2/27/97)

Representative W. J. Tauzin
Chairman,
Subcommittee on Telecommunications, Trade and Consumer Protection
House Commerce Committee
2125 Rayburn Building
Washington DC 20515

Dear Chairman Tauzin,

On behalf of the Visual Resources Association (VRA), we are writing to express our concern about H.R. 2281, the "WIPO Copyright Treaties Implementation Act." VRA, as an organization professionally involved with the history, production, conservation, and accessibility of visual materials, vehemently opposes the proposed legislation. VRA members serve students, scholars and others interested in cultural information, including the general public, and we feel that H.R. 2281 would greatly restrict libraries and educational institutions in their service to diverse clientele. We urge you to reject this legislation.

Proponents of H.R. 2281 would have the public believe that recent "compromises" on the bill have adequately addressed concerns of the library, non-profit, educational and public communities that have actively voiced opposition to this bill since its introduction. Indeed, this is not true. H.R. 2281 still proposes severe restrictions on the free speech and privacy rights of individual on-line users of networked information. Opponents to the bill are very much aware that the bill still contains regulations that would stifle emerging technologies; that it would give new sweeping legal powers to a small number of large content-owning companies at the expense of individual users and educational institutions; and that it would impose strict criminal, not civil, penalties on circumvention, even that conduct not tied to an act of infringement. To put it briefly, this legislation is anti-technology, anti-consumer and anti-education.

H.R. 2281 fails to address several important issues. Fair use, distance education, "first sale," and pertinent library and archive exemptions are glaringly absent from the proposed legislation. The bill would impose strict liability on access providers, which often include libraries, schools and universities, for any copyright infringements committed by their subscribers. The anti-circumvention provisions of the bill would go far beyond, even contradict, today's copyright law. Furthermore, the general public would potentially lose "fair use" access to networked information and the development of distance learning programs could be hindered.

Fortunately, alternative bipartisan legislation has been introduced. H.R. 3048, the Boucher/Campbell bill, successfully addresses our concerns. The Boucher/Campbell bill currently has nearly 50 cosponsors in the House, including 10 members of the Commerce Committee. It is our firm belief that H.R. 3048 presents a balanced

approach to the issues and that its adoption would successfully update the existing U.S. Copyright law for the digital era. The bill's targeted approach would discourage misuse of new electronic technologies, but avoid penalizing legitimate uses, or attempt to overly regulate the development of new electronic technologies.

H.R. 2281 is currently under consideration by the Commerce Committee's Subcommittee on Telecommunications, Trade and Consumer Protection. We urge you to reject the bill as crafted and throw your full support behind H.R. 3048. VRA recommends the adoption of H.R. 3048 and contends that it is currently the only valid choice for proponents of an open and democratic society in the digital era. We ask for your support on behalf of the Visual Resources Association and all U.S. citizens who expect and deserve those rights accorded to us at the founding of this great nation.

Sincerely,

Jenni Rodda
President, Visual Resources Association
Institute of Fine Arts
New York, New York
Kathe Hicks Albrecht
Co-Chair, Intellectual Property Rights Committee
Visual Resources Association
American University
Washington, DC.