

BEFORE THE UNITED STATES COPYRIGHT OFFICE

**COMMENTS OF THE LIBRARY COPYRIGHT ALLIANCE ON
MANDATORY DEPOSIT OF ELECTRONIC-ONLY BOOKS**

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The Library Copyright Alliance (LCA) consists of three major library

specified in the 2020 NPRM. They adequately respond to concerns raised by commenters on the 2018 proposed rule.

The Library's initiative to preserve and provide access to content is extremely important as it continues to build the United States' national library that represents all types of works, including those that are available only in electronic form. While the digital age allows for rapid publication of content, much of this content may be ephemeral and easily lost without proper stewardship. The Library's interest in collecting and preserving all types of works produced today will ensure that future generations of users will be able to access these materials.

Without mandatory deposit, works created in the digital age could be lost forever. Approximately half of films made before 1950 and most silent films are unavailable because of the lack of national preservation of these important pieces of our cultural heritage. The Library is actively trying to ensure that such enormous losses are not replicated in the digital era due to the lack of mandatory deposit of online-only works.

Many of the concerns regarding online-only serials exist with respect to electronic-only books. Expanding the mandatory deposit upon request requirement of the eight-year old interim rule to electronic books will ensure that the Library can continue to fulfill its responsibility to build and preserve a national collection.

The interim rule has worked well, enabling the Library to build and preserve its collection without imposing an undue burden on rights holders. The interim rule should be expanded to include electronic-only books and made final.

The Proposed Rule Correctly Does Not Create New Security Requirements

The Library is well-equipped to receive, store and provide access to any online-only materials collected under mandatory deposit regulations. Digital security is more advanced today

than at the time the current interim rule was considered. Numerous institutions, such as Google and HathiTrust, hold enormous volumes of digital files in their collections and are adequately protected by security measures. Indeed, as the U.S. Court of Appeals for the Second Circuit confirmed, the type of security measu

provision is too restrictive and does not accord with current practices in the library community. Access is an essential component of the Library's mission and such a narrow policy hampers the spread of knowledge and culture. The notice indicates "over time the Library would like to expand" public access under section 202.18 in separate rulemakings. LCA urges the Office to initiate should a rulemaking in the near future.

The Proposed Rule Should Be Expanded to Sound Recordings

The 2016 Notice of Inquiry asked for public comment on whether the interim rule should be expanded to apply to online-only sound recordings. LCA stated that it should. Unfortunately, the proposed rule--without explanation--does not address the mandatory deposit of electronic-only sound recordings. Only sngs (e)-1a