

Summary of Intended Testimony
Of
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In general, the views of the Association of American Publishers (“AAP”) regarding the issues under examination by the Copyright Office and the National Telecommunications and Information Administration (“NTIA”) for the Report to Congress mandated by Section 104 of the Digital Millennium Copyright Act have already been provided to these agencies for the record through Initial Comments and Reply Comments that were jointly submitted by AAP, the American Film Marketing Association, the Business Software Alliance, the Motion Picture Association of America, and the Recording Industry Association of America.

My purpose in testifying on behalf of AAP is not to repeat the contents of those joint submissions, but instead to address several issues raised by the hearing notice in the Federal Register of October 24, 2000 insofar as it asked a Specific Question regarding “the impact an amendment to Section 109 to include digital transmissions would have on the following activities of libraries with respect to works in digital form: (1) interlibrary lending; (2) use of works outside the physical confines of a library; (3) preservation and (4) receipt and use of donated materials.”

AAP believes that such an amendment to Section 109 would radically transform the traditional role of libraries in our society. More importantly, it would do so at the expense of authors and publishers trying to utilize the same digital network capabilities that are coveted by the library community to legally exploit their copyrights through the introduction of new formats and business models for making literary works available in a competitive global marketplace. Because of its potentially crippling impact on the commercial market for “e-books” and “print-on-demand” services (among others), AAP believes the implications of such a proposed amendment must be determined in the context of the library community’s espoused positions regarding contractual licensing and the circumvention of technological measures.