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# United States Senate

WASHINGTON, DC 20510

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## VIA ELECTRONIC TRANSMISSION

April 8, 2020

Mr. Brewster Kahle  
Founder and Digital Librarian  
Internet Archive  
300 Funston Avenue  
San Francisco, CA 94118

Dear Mr. Kahle:

I write to you as Chairman of the Senate Judiciary Committee Subcommittee on Intellectual Property, following the Internet Archive's recent announcement of its National Emergency "Library" initiative amid the coronavirus pandemic. The Subcommittee has jurisdiction over our nation's intellectual property laws, including copyright law. As you may know, in February my Subcommittee began a year-long review of the Digital Millennium Copyright Act with an eye toward reforming it for the twenty-first century.

I recognize the essential nature of books and publishing efforts during these challenging times. As schools, libraries, and bookstores have closed their physical locations across the nation, continued access to books is important to ensure that students and teachers have the materials they need for remote learning. It is also important that the general public has access to various types of books and written materials. I have been encouraged to see authors, publishers and other copyright owners ease these struggles of students, parents, educators, and the general public. Among other efforts, they are providing valuable content and online courses for free, providing flexible licenses for distance learning and enjoyment, and extending access to audiobooks and e-books. These voluntary efforts should be commended, not only because they are expanding access to copyrighted works, but also because they do not violate copyright law or harm creators. On the contrary, these times have shown the critical value of copyrighted works to the public interest.

As you can see, I deeply value access to copyrighted works, but that access must be provided within the bounds of the law—even during a national emergency. I understand that your "Library" will last until June 30, 2020 or the end of the coronavirus emergency in the United States, whichever is later, and that during this time, the Internet Archive will make 1.4 million books it has scanned available to an unlimited number of users. I am not aware of any measure under copyright law that permits a user of copyrighted works to unilaterally create an emergency

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copyright act. Indeed, I am deeply concerned that your “Library” is operating outside the boundaries of the copyright law that Congress has enacted and alone has jurisdiction to amend.

As I am sure you are aware, many authors and publishers are struggling during this pandemic. Just this past Monday, the president of the Authors Guild noted in the *New York Times* that: “Authors have been hit hard by the pandemic. . . . It could be a career-destroying time for some authors, many of whom are struggling to make a living.” At some point when the global pandemic is behind us, I would be happy to discuss ways to promote access to books in a manner that respects copyright law and the property interests of American authors and publishers.

Sincerely,

A handwritten signature in blue ink that reads "Thom Tillis". The signature is fluid and cursive, with a horizontal line underneath the name.

Thom Tillis  
Chairman

Subcommittee on Intellectual Property