

# Do not Include Intellectual Property Bills in the Omnibus Spending Bill, ACI Cautions Congress

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Copyright infringement is a violation of intellectual property that poses a significant burden on the economy, entrepreneurship, innovation, and consumers. While we commend Congressional efforts to curb abuses and protect intellectual property, we believe it is unacceptable to use the omnibus as an avenue to pass, without further opportunity for review and amendment, bills that

could have significant irreparable unintended consequences.



The Copyright Alternative in Small-Claims Enforcement Act, or the CASE Act, is one such bill,

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*Krisztina Pusok*

which, although laudable in its intent, could pose significant concerns that deserve further consideration. Besides the bill’s questionable constitutionality, it sets a statutory damage cap of \$30,000 that is well beyond any reasonable view of “small claims,” and may lead to increased abusive troll activity which is already cluttering up federal court dockets. The devil really is in the misleading details of the bill, which would only allow rights holders and non-rights holders to abuse the system to target small businesses and force online services to remove content that may actually be legitimate.

The second concerning bill attached to the omnibus is the

Trademark Modernization Act (TMA), which was intended to “clean up” the trademark register through a series of reforms at USPTO. Unfortunately, the TMA would create uncertainty and an administrative burden on the private sector that will be disproportionately felt by small- and medium-sized businesses. While we do believe the considerable increase in false and misleading trademark registrations, which lead to the creation of the TMA, deserves urgent consideration, we caution the need for further amendments without first considering the unintended consequences that may disproportionately affect small businesses.

Last, the Commercial Felony Streaming Act (CFS Act) does not belong as an extension to the omnibus bill. While we understand the need to update the criminal law to address the increasing trend in streaming piracy, we believe the CFS Act, in its current version, could subject ordinary people to lengthy prison sentences and fines for posting copyrighted material to YouTube and other video sharing sites without permission, and do so without fixing the underlying problems that drive streaming piracy.

We agree these are all issues that currently lack sufficient mechanisms for protecting intellectual property and deterring opportunistic conduct, and they do deserve the utmost consideration. However, the bills, in their current form, pose significant unintended consequences for small businesses, e-commerce, and consumers alike, and should NOT be rushed through the spending bill without further opportunity for review and amendment. The long-term effects could be irreparable.

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Krisztina Pusok  
American Consumer Institute  
+1 901-618-5875  
[krisztina@theamericanconsumer.org](mailto:krisztina@theamericanconsumer.org)

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