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otherwise be awarded, as the court considers just.

"(5) INNOCENT VIOLATIONS.—The court in its discretion may reduce or remit altogether the total award of damages in any case in which the violator sustains the burden of proving, and the court finds, that the violator was not aware and had no reason to believe that its acts constituted a violation.

§1204. Criminal Offenses and Penalties

"Any person who violates section 1202 with intent to defraud shall be fined not more than $500,000 or imprisoned for not more than 5 years, or both."

SEC. 5. CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 108 the following:

"108A. Limitations on exclusive rights: Reproduction for the Visually Impaired."

(b) TABLE OF CHAPTERS.—The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"12. COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS ..... 1201".

SEC. 6. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I join today in the introduction of the "NII Copyright Protection Act." This bill reflects the effort of the Working Group on Intellectual Property Rights, chaired by Assistant Secretary of Commerce and Commissioner of Patents and Trademarks Bruce A. Lehman. The Working Group included key Federal agencies in consultation with the private sector, public interest groups and State and local governments. Its examination of the intellectual property implications of the National Information Infrastructure forms a critical component of the Information Infrastructure Task Force, created in early 1993 by President Clinton and Vice President Gore.

This legislative proposal confronts fundamental questions about the role of copyright in the next century. On July 7, 1995, the Working Group released its preliminary draft report. Following additional hearings, public comment and consultation, the Administration released its long-awaited "White Paper," or final report, on copyright protection in the digital, electronic information age on September 5, 1995. This 238-page report, "Intellectual Property and the National Information Infrastructure," culminates in legislative recommendations that are incorporated in this bill. This bill takes important steps toward answering questions about the structure of copyright protection for decades to come.

Increasing the accessibility to computer networks is of vital importance to our Nation's continued economic health and growth. Computers have already been integrated into virtually everything we do from getting cash at bank ATMs, paying for our groceries at the local market, and sending e-mail messages to friends, to making a simple telephone call that is directed by the telephone companies' computers.

Our dependence on computers only grows. Businesses both large and small depend on computers to communicate, manage and improve their delivery of goods and services. In fact, small businesses can use computers successfully to keep up with their bigger competitors.

We have to make sure that all of us feel as comfortable with using computers as we did, in my youth, using a typewriter. We have to make sure that we appreciate all the advantages that networked communities, such as the Internet, have to offer. Computer networks will increasingly become the means of transmitting copyrighted works in the years ahead. This presents great opportunities but also poses significant risks to authors and our copyright industries.

I believe that we can legislate in ways that promote the use of the Internet, both by content providers and users. We must and will update our copyright laws to protect the intellectual property rights of creative works available online. The future growth of computer networks like the Internet and of digital, electronic communications requires it. Otherwise, owners of intellectual property will be unwilling to put their material online. If there is no content worth reading online, the growth of this medium will be stifled, and public accessibility will be retarded.

The Report of the Working Group on Intellectual Property Rights put it this way:

> Thus, the full potential of the NII will not be realized if the education, information and entertainment products protected by intellectual property laws are not protected effectively when disseminated via the NII. Creators and other owners of intellectual property will not be willing to put their interests at risk if appropriate systems—both in the U.S. and internationally—are not in place to permit them to set and enforce the terms and conditions under which their works are made available in the NII environment. Likewise, the public will not use the services available on the NII and generate the market necessary for its success unless a wide variety of works are available under equitable and reasonable terms and conditions, and the integrity of those works is assured. All the computers, telephones, fax machines, scanners, cameras, keyboards, televisions, monitors, printers, switches, routers, wires, cables, networks, and satellites in the world will not create a successful NII, if there is no content. What will drive the NII is the content moving through it.

The emergence of the computer networks forming the backbone of the National Information Infrastructure in this country and the Global Information Infrastructure worldwide hold enormous promise. They also present an enormous challenge to those of us in government and in the private sector to make sure it is accessible and affordable to all.

I support a balanced approach to digital communications and have already proposed a series of other bills to foster the continued growth of electronic communications while encouraging creativity. Together with this NII Copyright Protection Act, they will go a long way toward creating an environment for growth of digital networks.

When we consider information providers we cannot leave out the Federal Government. Government databases hold vast amounts of information that is not restricted by copyright and is legally required by the Freedom of Information Act to be available to the public, who paid for its collection. Earlier this year I introduced, along with Senators Hank BROWN and John KERRY, the "Electronic Freedom of Information Improvement Act of 1995," S.1090, to require federal agencies to make more information available in electronic form and online so that it can be readily accessible to students and scholars doing research, companies who need the data for business purposes or simply curious members of the public.

Government ought to be using technology to make itself more accountable and government information more accessible to the public. Individual federal agencies are already contributing to the development of the much heralded National Information Infrastructure by using technology to make Government information more easily accessible to our citizens. For example, the Internet Multicasting Service [IMS] now posts massive government data archives, including the Securities and Exchange Commission EDGAR database and the U.S. Patent and Trademark Office database on the Internet free of charge. Similarly, FedWorld, a bulletin board available on the Internet, provides a gateway to more than 60 Federal agencies.

The Electronic Freedom of Information Improvement Act would contribute to that information flow by increasing online access to Government information, including agency regulations, opinions, and policy statements, and FOIA-released records that are the subject of repeated requests. This bill passed the Senate in the last Congress and I hope to see it through both Houses of this Congress.

Our increasing reliance on networked computers for business and socializing also makes us more vulnerable to hackers and computer criminals. Anyone who has had to deal with the aftermath of a computer virus knows what havoc can be. Having previously been active in legislation to prevent computer crime and abuse, I have this year introduced the National Information Infrastructure Protection Act, S.982,

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with Senators KYL and GRASSLEY to increase protection for both government and private computers, and the information on those computers, from the growing threat of computer crime. This bill would increase protection against computer thieves, hackers and blackmailers and protecting computer systems used in interstate and foreign commerce and communications from destructive activity. It also serves to increase personal privacy, a matter on which I feel most strongly.

Finally, I note my recent introduction with Senator FEINGOLD of the Criminal Copyright Improvement Act of 1995, S.1122. This bill is designed to close a significant loophole in our copyright law and encourage the continued growth of the NII by insuring better protection of the creative works available online.

Under current law, a defendant's willful copyright infringement must be for purposes of commercial advantage or private financial gain to be the subject of criminal prosecution. As exemplified by the recent case of United States v. LaMacchia, this presents an enormous loophole in criminal liability for willful infringers who can use digital technology to make exact copies of copyrighted software or other digitally encoded works, and then use computer networks for quick, inexpensive and mass distribution of pirated, infringing works.

The Report of the Working Group recognizes that the LaMacchia case demonstrates that the current law is insufficient to prevent flagrant copyright violations in the NII context and generally supports the amendments to the copyright law and the criminal law (which sets out sanctions for crimi nal copyright violations) set forth in S. 1122, introduced in the 104th Congress by Senators LEAHY and FEINGOLD following consultations with the Justice Department. This increasingly important problem must be solved and the Criminal Copyright Improvement Act, S. 1122, is a necessary component of the legal changes we need to adapt to the emerging digital environment.

Today I join in sponsoring a bill that will help update our copyright law to the emerging electronic and digital age by revising basic copyright law definitions to take electronic transmissions into account. Further it endorses the use of copyright protection systems so that we may take fullest advantage of the technological developments that can be used to protect copyright and provide incentives for creativity. The bill provides graduated civil and criminal remedies for the circumvention of copyright protection systems through the use of false copyright management information.

Finally, it suggests certain limited exemptions for libraries and the visually impaired. In this bill and others we need carefully to construct the proper balance that will respect copyright, encourage and reward creativity and serve the needs of public access to works.

I believe that technological developments, such as the development of the Internet and remote computer information databases, are leading to important advancements in accessibility and affordability of information and entertainment services. We see opportunities to break through barriers previously facing those living in rural settings and those with physical disabilities. Democratic values can be served by making more information and services available.

The public interest requires the consideration and balancing of such interests. In the area of creative rights that balance has rested on encouraging creativity by ensuring rights that reward it while encouraging its public performance, distribution and display.

The Constitution speaks in terms of promoting the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries. Technological developments and the emergence of the Global Information Infrastructure hold enormous promise and opportunity for creators, artists, copyright industries and the public. There are methods of distribution emerging that dramatically affect the role of copyright and the accessibility of art, literature, music, film and information to all Americans.

I was pleased to work with Chairman HATCH, Senator THURMOND, Senator FEINSTEIN, Senator THOMPSON and others earlier this year to craft a bill creating a performance right in sound recordings, a matter that had been a source of contention for more than 20 years. That bill, The Digital Performance Rights in Sound Recordings Act of 1995, S. 227, deals with digital transmissions, has already passed the Senate and should soon be the law of the land.

Senator HATCH and I have also previously joined to cosponsor the Anticounterfeiting Consumer Protection Act of 1995, S. 1136, to add law enforcement tools against counterfeit goods and to protect the important intellectual property rights associated with trademarks. I anticipate prompt hearings on that important measure and its enactment this Congress.

I look forward to working with Chairman HATCH, the Chairman of the Judiciary, and others to adapt our copyright laws to the needs of the NII and the global information society, as well. The amendment of our copyright laws is an important and essential effort, one that merits our time and attention. I hope and trust that we will soon begin hearings on this important measure so that we may be sure to understand its likely impact both domestically and internationally. We must carefully balance the authors' interest in protection along with the public's interest in the accessibility of information.

Ours is a time of unprecedented challenge to copyright protection. Copyright has been the engine that has traditionally converted the energy of artistic creativity into publicly available arts and entertainment. Historically, Government's role has been to encourage creativity and innovation by protecting copyrights that create incentives for the dissemination to the public of new works and forms of expression. That is the tradition that I intend to continue in this bill, the NII Copyright Protection Act of 1995.

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. MACK, his name was added as a cosponsor of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

At the request of Mr. REID, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Idaho [Mr. CRAIG], and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 44, supra.

S. 112

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 112, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company.

S. 704

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 771

At the request of Mr. PRYOR, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 771, a bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes.

S. 960

At the request of Mr. SANTORUM, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 960, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns, and for other purposes.

S. 1049

At the request of Mr. HEFLIN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor

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