

## **Higher Education and Library Community Unites to Oppose H.R. 354, “The Collections of Information Antipiracy Act”**

### **An Update Issued by the CIC Copyright and Intellectual Property Committee\***

Despite strong opposition, there is continuing pressure on the House of Representatives to pass H. R. 354, “The Collections of Information Antipiracy Act.” The bill would create a new kind of intellectual property law giving unprecedented legal protection for electronic databases, sets of facts, or—in the language of the legislation—“collections of information.”

Supporters of “database protection” assert that copyright law, which already protects “original” selections or arrangements of facts, does not sufficiently discourage “piracy” of database information. Unlike copyright law, the database legislation would reach beyond protecting selection or arrangement and prohibit many uses of the underlying facts themselves, even many uses of information for teaching and research. The legislation may have the objective of preventing only “commercial” reproductions and uses of databases, but any law would be a new form of legal protection as well as constraint on the flow of information. Commercial interests that collect and rely upon collections of factual information—such as members of the real estate industry—are vigorously seeking this new legal protection.

While recognizing the legitimate interests of database owners to protect their investments in data, the higher education community has joined forces with library and scientific organizations in opposing the onerous provisions of H.R. 354. In a recent letter signed by AAU and fourteen other organizations, H.R. 354 is described as providing ***“overly broad protection for ‘collections of information’ that threatens seriously to impair the conduct of the nation’s research and education programs. The legislation would also reduce the public’s access to information; under H.R. 354, practices that are legal and customary today would not be permitted.”*** (Joint letter to all members of the House of Representatives, February 9, 2000, <http://www.arl.org/info/letters/354opp2.html>.)

H.R. 354 has powerful supporters in the publishing industry and other economic sectors in which exclusive data ownership has the potential of producing a large financial windfall. The lobbying pressure on Congress has been considerable. However, this not a business versus education issue. Opposition to H.R. 354 is also coming from the high-tech industry and entrepreneurs who depend on access to information to create new products and services.

Business interests opposing H.R. 354 include Amazon.com, AT&T, Bloomberg Financial Markets, Yahoo! Inc., Charles Schwab & Co., Reuters America Inc., and the U.S. Chamber of Commerce. They have joined with other organizations in voicing concern that ***“the measure could have unintended consequences that would hurt consumers, educators, small businesses, scientists, and the high-tech community.”*** (Joint Letter to Capitol Hill, February 8, 2000, <http://www.arl.org/info/letters/354opp.html>)

**Alternative legislation has been proposed** (H.R. 1858—the Consumer and Investor Access to Information Act) that protects databases from misappropriation while preserving the ability of information users to have reasonable access to factual knowledge and allowing researchers and entrepreneurs the opportunity to make “transformational uses” of data. H.R. 1858 has received strong support from both the business and research community, in part because it lacks the features of H.R. 354 that would give database compilers the power to lock up data collections and provide access only on their terms.

Although there is continuing dialogue between the supporters of H.R. 354 and H.R. 1858, reconciliation of the two pieces of legislation seems unlikely. H.R. 354 offers new opportunities for ownership of data while H.R. 1858 provides protection from misappropriation of proprietary data sets.

The higher education community has been effective in developing alliances to oppose H.R. 354. Managing and paying for the proprietary interests in factual data that will result from passage of H.R. 354 will be both administratively burdensome and expensive for universities. Ultimately, these added costs will be borne by taxpayers. When the negative consequences of H.R. 354 are explained, members of Congress and general public have been responsive to the idea of **maintaining a balance** between the economic interests of those who compile and maintain databases and those who add value and create new knowledge by using data. (See guest editorial, “Do facts belong to everyone? Some say no.” <http://www.arl.org/info/frn/copy/frazier.html>)

Working through appropriate institutional channels to communicate the concerns of higher education about H.R. 354 to Congressional representatives at this time may improve the quality of federal law governing databases of the sort that are essential resources for the future of research and teaching.

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\* The Committee on Institutional Cooperation (CIC) encourages the further distribution of this message. This information update is a service of the Copyright & Intellectual Property Committee of the CIC, and any views expressed here are not necessarily formal positions taken by the committee or CIC. For more information about CIC, visit <http://www.cic.uiuc.edu>. This announcement is the work of Kenneth Frazier, Director of Libraries, University of Wisconsin, with assistance from Prudence Adler, Assistant Executive Director of the Association of Research Libraries.

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