

The Honorable John Conyers, Jr.  
Committee on the Judiciary  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Lamar Smith  
United States House of Representatives  
Washington, D.C. 20515

Dear Chairman Conyers and Rep. Smith:

We understand that, on September 10, the House Judiciary Committee, under your leadership, will hold a hearing on the proposed settlement of a copyright infringement class action lawsuit brought against Google. We urge you to give careful scrutiny to the important copyright and competition policy issues the proposed settlement raises and to consider legislative or regulatory measures that could address the fundamental unfairness of this attempt to make public policy through litigation.

The undersigned organizations and companies – representing authors, libraries, non-profits and corporate interests -- believe the proposed settlement threatens to monopolize the access to and distribution and pricing of the largest, private digital database of books in the world. It would do so by using the class action mechanism to not only redress past harm, but to prospectively shape the future of digital book distribution, display and search.

Each of our organizations and companies strongly supports the effort to expand the availability of knowledge through promoting access to digitized books. But we do not believe this proposed settlement represents a fair, appropriate or desirable way to achieve that end. The proposed settlement, undertaken to redress a single legal claim, threatens to raise prices and restrict the public's access to digital books, disproportionately impact small libraries and academic institutions, including those serving rural, economically disadvantaged and minority communities, and threaten the rights of authors and small publishers.

- **The proposed settlement harms consumers by thwarting competition and ignoring privacy concerns.** It creates a digital book monopoly that will inevitably lead to fewer choices and higher prices for consumers of digital books. The settlement would allow a group of competing publishers and rights owners to collectively set prices and would leave Google as the only company with a the right to copy, display or sell digital versions of millions of so-called "orphan" works (books for which authors or rights holders cannot be identified or located). The settlement does nothing to ensure that Google does not use information about what books people are reading to make unfair profit or that it does not inappropriately share this knowledge with commercial interests or governments. Finally, the settlement is carefully structured to ensure that all of the covered digital content will be uniquely available to Google's search engine, for refinement of their search algorithm as well as actual displayed results.

- **The settlement is bad for libraries and schools.** While a handful of large and well-funded university libraries participated in the Google book-scanning effort, many other educational institutions and libraries will be forced to pay monopoly prices for access to the millions of books in the private Google database, straining already-stretched budgets and perpetuating a system of haves and have-nots in our nation's education system.
- **The settlement is bad for authors and small publishers.** Unless they act to opt out by the deadline, authors and other writers lose both rights and remedies enacted by Congress related to the fruits of their labor—a future in which they have no negotiating rights for the value of their work.
- **The settlement sets public policy through class action litigation.** The proposed settlement far exceeds the bounds of a typical class action settlement by prospectively creating a digital book monopoly and effectively privatizing important copyright and other public policy decisions.

As the Committee's past consideration of orphan works legislation and statutory mechanisms for encouraging the availability of works has demonstrated, there are fair ways, grounded in sound public policy, to ensure the protection of copyright, promote competition, and advance knowledge. We urge you, through careful review of the proposed settlement and its implications for all authors and rights holders, for the public, for schools and libraries, and for innovators, to begin the process toward shaping a more sound and equitable outcome.

Sincerely,

*Amazon.com*

*American Consumer Institute*

*American Independent Writers*

*American Society of Media Photographers  
(ASMP)*

*American Society of Journalists and Authors  
(ASJA)*

*Bear Star Press*

*Council of Literary and Magazine Presses*

*Illinois Library Association*

*Internet Archive*

*McPherson & Company, Publishers*

*Microsoft Corporation*

*National Writers Union/UAW Local 1981*

*New York Alliance of Library Systems*

*New York Library Association*

*Ohio Library Council*

*Open Book Alliance*

*Science Fiction and Fantasy Writers of  
America (SFWA)*

*Silverfish Review Press*

*Small Press Distribution*

*Special Libraries Association*

*Starcherone Books*

*Yahoo!*