Dear Sirs/Madames,

There are numerous concerns in the proposed legislation that I would like to address with you.

Photographers and visual artists tend to be individuals of modest means, including the classic ”starving artist” and the small business owner. Only a select few are able to monetize their artwork in a significant manner. Despite this situation, these artists pour their hearts and souls, as well for many their livelihoods, into the creative process. Many artists are not educated in the means of copyright protection. Despite this, works are often watermarked and websites denoted with copyright notices to protect their rights. Theft is notwithstanding widespread, and takes place on an international level, in particular since so much work is available digitally. Some theft is done by persons who want to pretend to be an artist themselves, while much other theft is actually done by multi-national corporations looking for free images with which to monetize their offerings. How can one trace back the author? It is near impossible. Reverse image search engines work fairly at best and this is the only way that it can be done.

The proposed law would make it easy to disseminate visual art without compensating the artist. Limiting the remedy to a reasonable royalty makes it impossible for most artists to collect for they cannot afford the legal representation required and the cost of such representation could exceed by many magnitudes any royalty obtainable. Further, this amounts to a compulsory license. Anyone could take a visual work and use it, claiming and only be exposed to the royalty payment. This deprives the artist from the choice (i) not to sell their work, and (ii) to select what their work will be used or marketed for. Remember the actress whose work was used for anti-islamic film without her consent. She was held not to hold the copyright to her work but the artists in this scenario do hold the copyrights. A similar scenario should not happen to them. Nor should a mother who puts her child’s image on a social networking site give freedom to a corporation to use it to cry out against child abuse (creating an impression that the family engages in such behavior to those who can identify them), without her consent. Photography and other visual art bears the moral rights of the artists, which should not be so easily circumvented. Injunctive relief plus damages (and attorney’s fees in appropriate cases) should be available.

Thank you for your attention to these concerns.

Jane Schultz