



# CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 24, 2004

## **H.R. 4077** **Piracy Deterrence and Education Act of 2004**

*As ordered reported by the House Committee on the Judiciary on September 8, 2004*

### **SUMMARY**

H.R. 4077 would authorize the appropriation of \$15 million for fiscal year 2005 for the Attorney General to enforce copyright laws. The bill would direct the Attorney General to establish the Internet Use Education Program to increase awareness of copyright infringement issues. H.R. 4077 also would specify that technology used to filter certain material out of movies for private viewing would not constitute a violation of copyright or trademark law. Finally, the bill would establish new federal crimes for the unauthorized recording of motion pictures in movie theaters or other venues and would provide for increased penalties for other acts relating to copyright infringement.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 4077 would cost \$15 million over the 2005-2009 period. This legislation could affect direct spending and receipts, but we estimate that any such effects would be less than \$500,000 annually.

H.R. 4077 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 4077 would impose private-sector mandates as defined in UMRA. CBO estimates that the direct cost of the mandates would fall well below the annual threshold established by UMRA for private-sector mandates (\$120 million in 2004, adjusted annually for inflation).

### **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of H.R. 4077 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>					
Authorization Level	15	0	0	0	0
Estimated Outlays	13	2	0	0	0

## **BASIS OF ESTIMATE**

For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2005. CBO assumes that the amount authorized for enforcement of copyright laws will be appropriated near the beginning of fiscal year 2005 and that outlays will follow the historical rate of spending for this activity. Based on information from the Department of Justice, CBO estimates that it would cost less than \$500,000 annually to establish and operate the Internet Use Education Program.

Section 12 of the bill would provide that technology used to filter certain material out of movies for private viewing would not constitute a violation of copyright or trademark law. CBO estimates that implementing section 12 would have no effect on federal spending.

Because those prosecuted and convicted under H.R. 4077 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Collections of such fines are recorded in the budget as revenues (i.e., governmental receipts), which are deposited in the Crime Victims Fund and later spent. CBO expects that any additional revenues and direct spending would be less than \$500,000 annually because of the relatively small number of cases likely to be affected.

## **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

H.R. 4077 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

H.R. 4077 would impose two private-sector mandates as defined in UMRA. CBO estimates that the direct cost of the mandates would fall well below the annual threshold established

by UMRA for private-sector mandates (\$120 million in 2004, adjusted annually for inflation).

First, the bill would impose a private-sector mandate on copyright owners. Section 12 would limit the right of copyright owners to collect compensation under copyright law from persons using or manufacturing a technology that enables making limited changes to a motion picture for a private home viewing. According to testimony from the Patent and Trademark Office and other sources, no such compensation is currently received by copyright owners. Therefore, CBO estimates that the direct cost of the mandate, measured as net income forgone, would be small or zero.

Second, section 12 also would impose a private-sector mandate on manufacturers, licensees, and licensors of technology that enables the making of limited portions of audio or video content of a motion picture imperceptible. Such manufacturers, licensees, or licensors would be required to ensure that the technology provides a clear and conspicuous notice that the performance of the motion picture is altered from the performance intended by the director or copyright holder of the motion picture. Complying with the mandate would exempt such manufacturers, licensees, or licensors from liability under section 32 of the Trademark Act of 1946. The direct cost of the mandate on those private-sector entities would be the total cost of providing the notice less the direct savings achieved by limiting their liability. CBO has no basis for determining the direct savings for the exemption from trademark liability. However, according to government and other sources, the technology to provide the required notice is readily available and is currently used by some manufacturers. Thus, CBO expects that the direct cost to comply with the mandate, if any, would be minimal.

## **PREVIOUS CBO ESTIMATES**

On May 18, 2004, CBO transmitted a cost estimate for S. 1932, the Artists' Rights and Theft Prevention Act of 2004, as reported by the Senate Committee on the Judiciary on April 29, 2004. In addition, on May 28, 2004, we transmitted a cost estimate for S. 1933, the Enhancing Federal Obscenity Reporting and Copyright Enforcement Act of 2004, as reported by the Senate Committee on the Judiciary on May 20, 2004. Both those bills would authorize the appropriation of \$5 million for each of fiscal years 2005 through 2009 for the investigation and prosecution of intellectual property offenses, and we estimated that implementing each bill would cost \$23 million over the 2005-2009 period, assuming appropriation of the necessary amounts.

On August 17, 2004, CBO transmitted a cost estimate for H.R. 4586, the Family Movie Act of 2004, as ordered reported by the House Committee on the Judiciary on July 21, 2004. Section 12 of H.R. 4077 and H.R. 4586 are identical, as are the cost estimates. The private-

sector mandates contained in section 12 of H.R. 4077 are identical to the mandates in H.R. 4586 with direct costs well below UMRA's annual threshold for private-sector mandates.

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