

UNITED STATES COPYRIGHT OFFICE

Notice of Inquiry and Request for Comments on the Topic of Facilitating
Access to Copyrighted Works for the Blind or Other Persons with
Disabilities

Comments of

Advanced Access Content Protection, Licensing Administrator, LLC
Content Management License Administrator, LLC
Digital Transmission License Administrator, LLC
DVD Copy Control Association
4C Entity, LLC

November 13, 2009

The groups submitting these comments each license a proprietary content protection technology and operate associated technology support facilities (e.g., key generation facilities) with respect to audiovisual content and some of the technologies licensed by the undersigned groups are also made available to protect audio and other forms of commercial entertainment content. These content protection technologies came into being to enable content to be distributed in new digital forms and formats for the enjoyment of all consumers, including consumers with disabilities, through the use of available features such as those described below.

When digital formats became available for audiovisual works in the 1990s, content owners expressed concern that the digital form of their content would easily lead to widespread unauthorized access to, and unlimited reproduction and retransmission of, that digital content. Our content protection measures have provided the requisite protection against such unauthorized access, reproduction and redistribution of the high value digital content that has been distributed in the formats and forms protected by our technologies. Simply put, without the technologies offered by the undersigned groups and other similar technologies, copyright owners stated that they would not have embraced the many new digital forms of distributing audiovisual works such as on DVD, through internet and digital terrestrial and satellite transmission, and on Blu-ray Discs.

As the US Government also appreciates, legal protection against circumvention of these technologies was an essential element of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty of 1996. Since that time, these treaties have been implemented in domestic legislation in countries around the world, including in the provisions of the U.S. Digital Millennium Copyright Act. *See* 17 U.S.C. § 1201 et. seq. The anticircumvention provisions of these treaties and laws have helped to ensure that the technological protections remain viable to support the continuing availability of audiovisual content in these new digital forms

The content protection groups are joining in this comment document in order to make two very basic points.

First, each of the groups is committed to working with organizations seeking to gain access to copyrighted works that are protected using technological protection measures in ways that facilitate enjoyment of those works for persons who are visually or hearing impaired or who have other forms of disabilities for which enjoyment of such works requires special measures or accommodations. We understand that many efforts have been underway and continue to be underway to facilitate such access and enjoyment without requiring any circumvention of technological protection measures.

Specifically, each group stands ready to evaluate any concerns that may exist with regard to whether its technology creates a barrier to the use of technologies that are necessary to enable enjoyment of copyrighted audiovisual works for persons with various forms of disabilities. As individual organizations, each group is also prepared to engage in a process to encourage communication about the issues that may exist with regard

barriers to access and enjoyment by persons with disabilities. Collectively, we believe that accommodations to assist persons with disabilities to enjoy copyrighted audiovisual works can be readily achieved without need for circumvention of the technological protection measures licensed by our organizations.

Examples of mechanisms to provide such enjoyment include the following: subtitle files (in various languages) already are provided as a common practice on DVD and Blu-ray Discs; video description files (providing audio descriptions of scenes) are also already available and provided on a substantial number of DVDs and Blu-ray Discs; and BD-Live capability (to allow consumers to post their own material for playback simultaneously with a movie in order to enhance enjoyment in various ways) is available on an increasing number of Blu-ray Discs.

Second, while these groups take no general position on the need for any new international agreement in this area, each group strongly urges the United States to ensure that if any new international agreement is supported or adopted with regard to the issues in the Notice, any such instrument does not include any requirement that domestic laws create one or more new exemptions to permit circumvention of effective technological protection measures for the purpose of enabling access to and enjoyment of copyrighted works protected by such measures. The technological protection measures licensed by the undersigned groups have worked, individually and in combination, to allow hundreds of millions of consumers – including consumers with various disabilities – to enjoy audiovisual and other copyrighted content in new digital forms and over home networks.

Our specific concern with the “Proposal by Brazil, Ecuador and Paraguay, Relating to Limitations and Exceptions: Treaty Proposed by the World Blind Union,” put before the Standing Committee on Copyright and Related Rights during its Eighteenth Session, May 25 to 29, 2009, is that Section 6 of this Proposal would require that individuals to be benefited by the new Treaty must be permitted “when necessary the right to circumvent the technological protection measure [applied to a work] so as to render the work accessible.” Such a broad new exemption obligation could fundamentally undermine the system of legal protection for technological protection measures that was created, and has been supported, by the anticircumvention provisions of the 1996 WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty and the implementations of those treaties in domestic law, including, as noted above, in the anticircumvention provisions of the U.S. Digital Millennium Copyright Act.

Without the technologies offered by the undersigned groups – the practical effectiveness of which would be seriously undermined in the absence of the legal protection and support afforded such technologies by the anticircumvention provisions of the WIPO Treaties and related domestic laws – the advances in making available new digital forms of audiovisual entertainment would not have occurred. By enabling an array of new formats for accessing digital entertainment, our content protection measures have also facilitated improved access for the people with various disabilities through the features described above.

For all of the reasons stated above, we urge the United States to promote access to and enjoyment of copyrighted audiovisual works by people with various disabilities through focus on the tools and measures that provide practical solutions along side of – rather than by undermining – technological protection measures that are essential to the broad distribution of high value digital forms of copyrighted audiovisual works for the enjoyment of all consumers.

About the submitting organizations:

Advanced Access Content System Licensing Administrator, LLC (AACSLA) is the entity that has developed, and licenses, the Advanced Access Content System (AACSLA), a content protection specification for managing content stored on the next generation of prerecorded and recordable optical media for consumer use with PCs and CE devices. AACSLA complements new innovations in the next-generation of optical discs, and enables consumers to enjoy next-generation content, including high-definition content. AACSLA is currently applied to prerecorded content released on Blu-ray Discs, China Blue High Definition, and HD-DVD and is also applied to consumer recordable versions of Blu-ray Discs and HD-DVD. More information is available at AACSLA's website: www.aacsla.com

Content Management License Administrator, LLC (CMLA) is the entity formed to provide commercial licenses for the CMLA Technology Specification which forms a trust model for the Open Mobile Alliance (OMA) Digital Rights Management (DRM) version 2.0 (and, as updated) interoperability specification. CMLA also extends this trust model to enable content and service protection for mobile broadcast by adding support of the IP Datacast over DVB-H: Service Purchase and Protection (SPP) A100 Specification Annex B (18Crypt) and the OMA Broadcast DRM Profile. More information is available at CMLA's website: www.cm-la.com

Digital Transmission Licensing Administrator, LLC (DTLA, also known as 5C due to its having been founded by five companies) is the entity formed to license Digital Transmission Content Protection (DTCP) technology. DTCP protects high-value digital motion pictures, television programs and audio against unauthorized interception and copying in the home and personal environment (e.g., between a digital set top box and digital video recorder, or between a personal computer and a digital TV). More information is available at DTLA's website: www.dtcp.com

DVD Copy Control Association (DVD CCA) is a not-for-profit corporation with responsibility for licensing CSS (Content Scramble System) to manufacturers of DVD hardware, discs and related products. Licensees include the owners and manufacturers of the content of DVD discs; creators of encryption engines, hardware and software decrypters; and manufacturers of DVD Players and DVD-ROM drives. The Content Scramble System (CSS) is the protection system that has enabled the owners of movie content to provide consumers access to high quality DVD movies for home viewing on their video systems and computers. CSS prevents movies from being illegally duplicated, protecting the intellectual property of the manufacturers, producers and writers from theft. CSS is a two-part system for which manufacturers of both the movie content (discs) and hardware or software (players) purchase licenses. The information on DVD discs is encrypted. The DVD players - either a computer drive or a home video player - have technology to 'decrypt' the information so it can be viewed. CSS is critical to DVD. More information is available at DVD CCA's website: www.dvdcca.org

4C Entity, LLC (4C) was formed to develop technologies that will enable premium content to be shared as authorized on a wide range of electronic devices built by multiple manufacturers. 4C Entity is working to provide consumers with flexible access to all forms of digital content, while ensuring that the content is high quality, easy to store and maintain, transferable to similar digital devices and copyright-holder friendly. 4C Entity has developed a solution: Content Protection for Recordable Media (CPRM) and Content Protection for Pre-recorded Media (CPPM). The CPRM/CPPM Specification defines a renewable cryptographic method for protecting entertainment content when recorded on removable and portable physical media including, but not limited to, DVD media and Flash memory. More information is available at 4C's website: www.4centity.com.