



June 11, 2018

VIA E-MAIL ONLY

Regan Smith
General Counsel
U.S. Copyright Office
Library of Congress
101 Independence Ave. SE
Washington, DC 20559-6000

Re: Docket No. 2017-10 - Exemption to Prohibition Against Circumvention of Technological Measures Protecting Copyrighted Works (Proposed Class 2)

Dear Ms. Smith:

Thank you for the invitation to reply to your letter of May 21, 2018 regarding Proposed Class 2 (motion pictures for accessibility), which was addressed to the hearing participants. I herein respond to your questions on behalf of the Association of American Publishers, the Motion Picture Association of America, Inc., and the Recording Industry Association of America (the "Joint Creators and Copyright Owners").

The first question in your letter appears to invite exemption proponents to submit entirely new evidence to support expanding the scope of the requested exemption beyond the university setting. However, the proper time for submitting such evidence has passed and reliance on such untimely evidence would prejudice opponents of the proposed exemption.

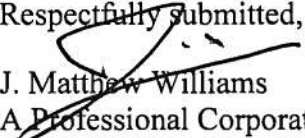
During the public hearing on Proposed Class 2, the proponents "acknowledged that at least for the record for the purpose of this rulemaking that the examples are limited basically to the university context." Draft Transcript of April 12, 2018 Public Hearing at 67:13-16. Moreover, the Notice of Proposed Rulemaking ("NPRM") was very explicit that "[p]ersons wishing to address proposed exemptions in written comments should familiarize themselves with the substantive legal and evidentiary standards for the granting of an exemption under section 1201(a)(1)[.]" Exemptions To Permit Circumvention of Access Controls on Copyrighted Works, 82 Fed. Reg. 49,550, 49,558 (Oct. 26, 2017). The NPRM also informed parties that, "[i]n addressing factual matters, commenters (both proponents and opponents) should be aware that the Office favors specific, 'real-world' examples supported by evidence over speculative, hypothetical observations." *Id.* Finally, the NPRM instructed that "[p]roponents of exemptions should present their complete affirmative case for an exemption during the initial round of public comment, including all legal and evidentiary support for the proposal." *Id.* (emphasis added). Accordingly, it is far too late in the process for the proponents to be submitting new evidence.



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The Joint Creators and Copyright Owners appreciate the opportunity to comment on these issues. Please let me know if you have any additional questions.

Respectfully submitted,


J. Matthew Williams
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MITCHELL SILBERBERG & KNUPP LLP

cc: Anna Chauvet