

# **Comment Regarding a Proposed Exemption Under 17 U.S.C. 1201**

## **Item 1. Commenter Information**

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This comment is filed by the Free Software Foundation, a charitable corporation founded in 1985. The Foundation is the largest single contributor to the GNU operating system (used widely today in its GNU/Linux variant). The Foundation's GNU General Public License is the most widely used free software license, covering major components of the GNU operating system and tens of thousands of other computer programs used on hundreds of millions of computers around the world.

## **Item 2. Proposed Class Addressed**

Class 4: Audiovisual Works—Livestream Recording

## **Item 3. Statement Regarding Proposed Exemption**

The GNU/Linux operating system has become one of the most widely used operating systems on the planet. The GNU System and the kernel Linux are called free software because users are free to study, share, and improve the software. Those who promote free software believe that controlling ones own computing should be a universal right.

Digital restrictions interfere with the ability to enjoy these freedoms. Circumventing such restrictions for any use should not come with the threat of legal sanction. The process of continually applying for exemptions under 17 U.S.C. 1201 is onerous and instead any circumvention for a non-infringing purpose should be permitted.

However, where exemptions are used to safeguard the public from these laws, it must be the case that exemptions should cover the sharing and distribution of software and instructions for circumventing access control technologies. Without this, exemptions are near useless, since it would require everyone who wants to act within their scope to write their own software to do so.

With regard to this particular exemption, all users have a legitimate right to circumvent controls on audiovisual works, regardless of the medium or the particular use involved. Limiting exemptions to particular users or to narrowly defined uses harms everyone, even those who may fall under existing exemptions. Livestreaming of events and media is increasingly the way that users get access to information that they care about. While the Free Software Foundation has for years offered livestreams of its events, given the current pandemic livestream is now the only avenue available for these events and seminars. While none of the Foundation's livestreams are restricted and anyone is free to make copies and share without any interference, this is not the case for many important works. The copyright act permits everyone to use portions of other works for the purpose of commentary or criticism, but digital restrictions impair this right that all users possess. The ability to capture live sporting events in order to comment on them should not be infringed by technological measures. The exemption should extend to all audiovisual works and all users, as well as to the sharing of tools needed to make circumvention possible.

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