

Docket (/docket/COLC-2020-0010) / Document (COLC-2020-0010-0075) (/document/COLC-2020-0010-0075)  
/ Comment

 PUBLIC SUBMISSION

## Class 1\_Reply\_Columbia University

Posted by the **U.S. Copyright Office** on Mar 11, 2021

View More Comments 159 (/document/COLC-2020-0010-0075/comment)

Share ▼

Comment

On behalf of Columbia University, I am writing to provide a statement in support of the application brought by Brigham Young University under class one of the Eight Triennial 1201 Rulemaking. Brigham Young University seeks to broaden an existing exception to allow academic institutions to circumvent a technological protection measure for the purpose of making an entire copy of a film or video from DVD format so that the film may be accessed and streamed lawfully for the purposes of remote teaching and research. Currently, the exception granted only provides for the reproduction of small portions of a work. The notice of proposed rulemaking asked what circumstances have changed since the last 1201 rulemaking, when a similar application was denied, that now justify the granting of the exemption.

It is the COVID-19 Pandemic that has in fact profoundly changed how we teach with technology, where students and faculty are located physically during the semester and how materials are accessed during the course of teaching and research. At Columbia University Libraries, we hold a vast film and video collection in DVD format representing the canon of film history. We hold more than 44,000 titles. The collection has been used robustly for years in support of teaching and research, not just by our faculty and students in Film Studies but by faculty and students throughout Columbia University wherein they have screened film, whether in a classroom or for research purposes in the Libraries for purposes directly connected to curriculum. Film is a profoundly remarkable communication medium, providing visual nuance and impact of artistry, of world events and of research, and it is not easily replaced.

At the advent of the Pandemic approximately one year ago, Columbia University Libraries realized the immediate need of continued but remote access to film and video for the purposes of teaching and research. Streaming budgets were increased dramatically to respond to this immediate need, with some of our budgets increased by as much as 72%. In fact, Columbia University Libraries has a good working relationship with distributors of streamed film for the academic market and appreciates the work they have done in obtaining many licenses relating to titles in our collection. However, thus far, Columbia University Libraries has been able to obtain licenses for only approximately 38% of its collection. The impact has been profound. Columbia University has had little option but to cancel courses because of lack of access to streamed film, a severe limitation upon the University's core mission.

Streamed film for the academic market has been slow to develop. At the same time, the Pandemic has placed in sharp crystalline relief current market failures, with distributors racing to catch up by either broadening repertoire or even territory. The market needs the time and space to develop but it cannot do so at the expense of education. Columbia University Libraries will continue to negotiate licenses for streamed film for remote teaching and research purposes when licenses become available, but where a license is not available because of gaps in the market, it should have the ability to provide streamed access from its DVD collection, so long as the films are streamed lawfully. In fact, this approach will incentivize distributors to broaden repertoire and continue to grow the market collaboratively. And most importantly, it will allow the University to deliver upon its core mission.

I have a final comment concerning the duration of the Pandemic. It has been suggested in opposition filings that the Pandemic is coming to an end. While I am not an epidemiologist, Columbia University has, because of its commitment to research and public health, provided information about the COVID-19 Pandemic that can be publicly accessed online. Dr. Michael Osterholm, epidemiologist, regents professor, director of the Center for Infectious Disease Research and Policy at the University of Minnesota and member of member of President-elect Joe Biden's COVID-19 Advisory Board, just stated during a March 7th television interview on "Meet the Press" that we are only now in the "eye of the hurricane". While it is my hope that our lives may return to normal sooner rather than later, it is right now impossible to say with any degree of certainty when and how that will come to pass. Universities will require time to transition back to some form of in person teaching and research and students and faculty will require the time to return to the United States, to New York and to campus. In fact, the transition may not be linear in nature. As evidenced this semester at Columbia University, educational institutions will need the flexibility to shift rapidly back and forth from in person to online instruction as the Pandemic recedes.

Rina Elster Pantalony  
 Director, Copyright Advisory Services  
 Columbia University

**Comment ID**

COLC-2020-0010-0216



**Tracking Number**

km4-3sx7-xx2p

**Comment Details**

**Submitter Info**

**Organization Name**

Columbia University



*Your Voice In Federal Decision Making*

[About](#) [Agencies](#) [Learn](#)  
(/about) (/agencies) (/learn)

[Reports](#) [FAQ](#)  
(<https://resources.regulations.gov/public/component/main?main=Reports>) (/faq)

[Privacy & Security Notice \(/privacy-notice\)](#) | [User Notice \(/user-notice\)](#) |  
[Accessibility Statement \(/accessibility\)](#) | [Developers \(https://open.gsa.gov/api/regulationsgov/\)](https://open.gsa.gov/api/regulationsgov/)

[Support \(/support\)](#) [Provide Site Feedback](#)