

UNITED STATES COPYRIGHT OFFICE



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

Proposed Class 8: Literary Works—Accessibility
Submitted by: Association of American Publishers

[] **Check here if multimedia evidence is being provided in connection with this comment**

ITEM A. COMMENTER INFORMATION

This comment is submitted on behalf of the Association of American Publishers (“AAP”). AAP represents the leading book, journal and educational publishers in the United States on matters of law and policy, advocating for outcomes that incentivize creative expression, professional content and innovative educational materials. AAP’s members depend first and foremost on a rational and effective copyright system.

ITEM B. PROPOSED CLASS ADDRESSED

Proposed Class 8: Literary Works—Accessibility

ITEM C. OVERVIEW

Petitioner American Council of the Blind and others seek to update the language of the existing exemption permitting circumvention of literary works distributed electronically to facilitate assistive technologies for persons who are blind, visually impaired or have print disabilities. Petition for New Exemption Under 17 U.S.C. § 1201, at 3 (“Pet.”); Notice of Proposed Rulemaking, 85 Fed. Reg. 65293, 65305 (Oct. 15, 2020) (“NPRM”); *see also* 37 C.F.R. § 201.40(b)(3) (existing exemption).

Specifically, petitioners seek to modify the exemption to reflect recent changes to U.S. law to implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (“Marrakesh Treaty”) by (i) substituting “an eligible person, as such a person is defined in 17 U.S.C. § 121,” for “a blind or other person with a disability” in the “personal use” clause of the exemption; and (ii) expanding the scope of works covered from “nondramatic literary work[s]” to “literary works and previously published musical works that have been fixed in the form of text or notation” in the “authorized entity” clause of the exemption. In addition, petitioners seek to substitute the phrase “the market price of an inaccessible copy” for the less inclusive terminology “the price of the mainstream copy” in the personal use clause of the exemption. *See* Pet. at 6-10; NPRM at 652305-06; 37 C.F.R. § 201.40(b)(3)(i), (ii).

Privacy Act Advisory Statement: Required by the Privacy Act of 1974 (P.L. 93-579)

The authority for requesting this information is 17 U.S.C. §§ 1201(a)(1) and 705. Furnishing the requested information is voluntary. The principal use of the requested information is publication on the Copyright Office Web site and use by Copyright Office staff for purposes of the rulemaking proceeding conducted under 17 U.S.C. § 1201(a)(1). NOTE: No other advisory statement will be given in connection with this submission. Please keep this statement and refer to it if we communicate with you regarding this submission.

AAP agrees that it is appropriate to update the language of the existing exemption in the manner proposed in Proposed Class 8 in recognition of changes to U.S. law to implement the Marrakesh Treaty. Accordingly, AAP has no objection to the specific changes proposed.

Dated: February 25, 2021

Association of American Publishers



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