



10795 Watson Road  
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May 14, 2021

To Regan A. Smith,

Thank you for the opportunity to respond to your questions that you put forward on April 16, 2021. We at Swank Motion Pictures (Swank) would like to provide some additional clarity as you requested.

In question 1.a from the letter, you ask for us to “identify whether and how licensors of full-length motion pictures for educational purposes have responded to the pandemic’s disruption to education.” The studio partners that Swank represents have been understanding of the pandemic’s challenge to education. They have not only continued licensing options that facilitate remote learning during the pandemic, but also have expanded title availability.

During the pandemic, we have been actively assisting academic institutions (both K-12 and higher-education) in getting students their instructor-assigned content from the studios we represent in this remote learning environment forced upon all during this pandemic. Last year we added 2,543 new titles to our Digital Campus catalog. This is a 67% increase over the number of new titles added in 2019.

The studios have always been supportive of content being used in the academic environment. Even before the pandemic, the studios recognized that in addition to content that is presented during in-class instruction, there are also times when the student will need to view the content outside of the classroom. For this reason, Swank has always enabled an instructor to assign a digital title to a student (whether one student or the entire class) which can be viewed outside of the classroom (“remote learning”). During the pandemic, we saw a strong growth in our platform for this remote learning.

This digital remote learning option has been available for over nine years via our Digital Campus product that we make available to K-12 and higher education institutions. We will also make this Digital Campus product available post-pandemic in the exact same manner as it is today. Finally, Swank continues to work with the studios to add additional titles to our catalog for licensing. Since launch of this product, we have increased the available library over 700% to a catalog today of more than 40,000 titles. Typically, for the studios that we represent, all titles released theatrically or for home entertainment will become available to our customers for academic licensing after their theatrical window. The platform provided from Swank is still relatively young and we are continuing to enhance the technology and constantly grow the content catalog.

In question 1.b from the letter, you ask for us to “provide your views on regulatory language that would address any disruption to the educational licensing of full-length motion pictures during the pandemic.”

From a licensing standpoint, there has been a steady move to licensing motion picture content for academic purposes outside the classroom rather than depending upon using a DVD inside the classroom. Certainly, the pandemic forced many educational institutions to shift rapidly to a remote learning model; and we do not seek to downplay the disruption and challenges caused by the pandemic. However, over the last decade schools have been increasingly embracing more aspects of remote learning and shifting away from DVD use in the classroom to streaming motion pictures online, either in the classroom or remotely.

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The studios have made proactive approaches to licensing of content for students that facilitate remote learning needs, including those encountered during the pandemic. Through platforms and products such as ours, these remote access needs are fulfilled while providing the necessary technical protections for the valuable motion picture content. Therefore, the market solutions fulfill the needs that have emerged during the pandemic. And we, at least, are often able to offer our product to what amounts to pennies on a per student basis.

Our view is that an exemption to the prohibition on circumvention is not warranted to enable remote access of full-length motion pictures and TV content for educational use, even during the pandemic. We do not see how regulatory language that might accompany such an exemption would prevent disruption of the functioning and growing educational licensing market for full-length motion pictures and TV content.

Thanks –

Bill Evjen

VP & CIO Swank Motion Pictures

Barbara Nelson

SVP Swank Motion Pictures