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May 14, 2021

**VIA EMAIL ONLY**

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

**Re: Response to Post-Hearing Letter on Proposed Class 3 – Docket No. 2020–11,  
Exemptions to Prohibition Against Circumvention of Technological Measures  
Protecting Copyrighted Works**

Dear Ms. Smith:

Thank you for your letter of April 16, 2021 concerning Class 3 (Audiovisual Works – Accessibility). Counsel for DVD CCA, AACCS LA, and I (for the Joint Creators and Copyright Owners) met and conferred with counsel for petitioners via multiple Zoom meetings, phone calls and emails. Although we believe that substantial progress was made through these efforts, and our clients continue to endorse the goal of increasing accessibility, our work did not result in an agreement with petitioners on regulatory language. Thus, we jointly submit this letter and the attached language, which reflects our clients' current proposal for how to meet the petitioners' expansion requests while also protecting copyright owners and providing sufficient clarity of purpose and scope. The language does not represent our clients' preferred language, but instead represents compromise language we proffer after multiple exchanges with petitioners during the meet and confer process.

While our clients do not oppose in principle expanding the existing exemption to allow for "proactive remediation" and a "sufficient quality" limitation on the market check process, these expansions – as well as the other proposed expansions our clients have not opposed – impact the scope of the uses of works at issue in ways that we believe justify the language we propose. For example, we believe that the language describing the requisite security measures to be used by exemption beneficiaries and the language used to describe the market check requirement should be clarified. We note that it is possible that additional progress toward consensus might be made through further communications with petitioners and/or through the *ex parte* meeting process.



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We appreciate the attention paid to these issues by the Copyright Office, NTIA, and the Library.

Respectfully submitted,

/s/J. Matthew Williams  
Partner of  
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Michael Ayers, Esq.  
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