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David O. Carson, Esq.  
General Counsel  
Copyright GC/I&R  
P.O. Box 70400  
Southwest Station  
Washington, D.C.

Dear Mr. Carson:

I write on behalf of Dow Jones & Company, Inc. We appreciate this opportunity to submit comments concerning the public hearings held in May and the related public comments on Section 1201 (a) (1) of the Digital Millenium Copyright Act.

Dow Jones is the publisher of The Wall Street Journal and its international and online editions. We also publish other periodicals including Barron's and SmartMoney magazines, Dow Jones Newswires, Dow Jones Indexes and the Ottaway group of community newspapers. Many of these publications and services are available electronically on the Internet through the World Wide Web. Dow Jones is also co-owner with Reuters Group of Factiva, which provides Internet access to a database of global news and business information from more than 7,000 sources.

In its written comments and testimony, the Association of American Universities (AAU) proposed a broad exemption for factual or "thin copyright" works including newspapers and databases. In our view, the AAU's argument that newspapers are not fully protectable under the copyright laws is wholly unsupportable as a matter of law and common sense. The distinction between a simple recitation of "facts" in a telephone book and the reporting and analysis of complex issues in a newspaper are obvious. We agree with the comments filed by the Newspaper Association of America (NAA), which urge the Copyright Office to resist any effort to recommend classifying newspapers differently from

other information publishers.<sup>1</sup> Moreover, we believe that the NAA's well-reasoned analysis of why newspapers are subject to the full protection of the copyright law and should not be excepted from Section 1201 (a) (1) applies equally to the electronic publication of news in other forms such as a database of articles from newspapers and other periodicals.

The assumption of the AAU that control technology will somehow unreasonably restrict access to information is belied by experience. WSJ.com, the online edition of The Wall Street Journal, is password protected, and is the largest paid subscription site on the World Wide Web with over 438,000 paid subscribers. Because of this large subscriber base, notwithstanding our use of access control technology, our publication is widely available to users for non-infringing purposes.

If copyright owners were unable to rely upon technological protections to prevent unauthorized access to their publications, they would have to consider seriously whether to make their information available in electronic form. There would be little incentive to distribute copyrighted material electronically when doing so would simply make it easier for everyone to access that material, assembled at great cost, without paying. Ultimately, the end result of such a regime could well be far more limited access to valuable information.

We urge the Copyright Office to treat newspapers, magazines, databases, and wire services like all other information publishers.

Very truly yours,

Rosemary Spano  
Vice President, Law  
Deputy General Counsel

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<sup>1</sup> David S.J. Brown, René P. Milan, and E. Molly Leahy, Comments of the Newspaper Association of America (March 31, 2000).