

Short Comment Regarding a Proposed Exemption Under 17 U.S.C. 1201

Item 1. Commenter Information

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Item 2. Proposed Class Addressed

Proposed Class 21: Vehicle Software—Diagnosis, Repair, or Modification

Item 3. Statement in Opposition to Additional Comments submitted by Alliance of Automobile Manufacturers

AAA strongly disagrees with many of the assertions and claims made at the May 19, 2015 public hearing by those speaking in opposition to the proposed exemption.

While the concerns about malicious hacking and emissions raised by the Alliance are valid, it is misleading for OEMs to cite these issues as evidence that it is necessary to crack down on misuse via copyright law. The examples of potential tampering or hacking outlined in their comments are already considered illegal by other laws or regulatory standards. Applying the provisions outlined in the Digital Millennium Copyright Act to protect vehicle software is a broad interpretation of congressional intent and is only likely to criminalize consumers and security researchers while not dissuading bad actors.

In addition, this exemption does not prevent OEMs from creating and implementing robust security standards and systems that prevent unauthorized tampering with vehicle systems, which AAA supports and encourages. The exemption simply prevents owners who choose to legally modify their systems or researchers looking to identify vulnerabilities from being liable as copyright violators. There is no access or security vulnerability that is mandated by this exemption.

The proposed exemption would ensure motorists who access the system of their own vehicle (or allow a third-party to access) wouldn't be as branded criminals under copyright law.

The opposing parties are correct that many important steps have been taken to ensure access to specific repair data (the recent Right to Repair MOU and the Dorgan letter in 2002); however, those agreements are designed for a repair shop context, not for many of the circumstances contemplated by proposed exemption that might involve a single motorist or researcher working on a single vehicle. These efforts also intentionally did not address telematics technology, which will be an increasingly central part of vehicles, an increasingly expensive item for motorists to have repaired, and of significant interest to those looking to improve their cars or associated services.

Ensuring a motorist is provided legal authority to legally modify his or her own vehicle or to authorize a third party of their choice to carry out modifications or enhancements encourages competition and

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 website 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.

preserves consumer choice. Not including this exemption would undercut competition and limit a consumer's rights to control the vehicle that they purchased. These modifications and enhancements that are often made by the aftermarket are already covered by state and federal laws regulating tailpipe emissions.

For the reasons noted above, AAA continues to support the proposed class exemption for vehicle software and urges the Librarian to consider the intent of the DMCA when considering its approval.

As an organization serving 55 million motorists, AAA urges the U.S. Copyright Office to protect the rights of consumers and we fully support the Librarian granting an appropriate exemption from Section 1201(a)(1) for proposed class 21.