

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

## Item 1. Commenter Information

Joshua Gay & Donald Robertson, III  
Free Software Foundation, Inc.  
51 Franklin Street, Fifth Floor  
Boston, MA 02110-1335  
licensing@fsf.org

This comment is filed by the Free Software Foundation, a charitable corporation founded in 1985. The Foundation is the largest single contributor to the GNU operating system (used widely today in its GNU/Linux variant). The Foundation’s GNU General Public License is the most widely used free software license, covering major components of the GNU operating system and tens of thousands of other computer programs used on hundreds of millions of computers around the world.

## Item 2. Proposed Class Addressed

Proposed Class 20: Jailbreaking—Smart TVs

## Item 3. Statement Regarding Proposed Exemption

The GNU/Linux operating system has become one of the most widely used operating systems on the planet. The GNU System and the kernel Linux are called free software, because users are free to study, share and improve the software. Those who promote free software believe that controlling ones own computing should be a universal right.

Digital restrictions interfere with the ability to enjoy these freedoms. Circumventing such restrictions for any non-infringing use should not come with the threat of legal sanction. The process of continually applying for exemptions under 17 U.S.C. 1201 is onerous and instead any circumvention for a non-infringing purpose should be permitted.

However, where exemptions are used to safeguard the public from these laws, it must be the case that exemptions should cover the sharing and distribution of software and instructions for circumventing access controls technologies. Without this, exemptions are near useless, since it would require everyone who wants to act within their scope to write their own software to do so.

Part of the success of the free software movement is that computer embedded televisions (“smart TVs”) often come preinstalled with a wide variety of free software. While the license on this software grants users the right to modify, share, and install modified versions of the software on their device, smart TV manufacturers often implement access control restrictions that interfere with the user’s rights to the software. Users should be able to install modified versions of the free software they receive with a smart TV, as well as being able to install their own or other software on their device. In addition, as such smart TVs become more fully featured, including things like voice commands, the risk of users’ private data being improperly collected grows. Smart TVs capable of recording audio and possibly video of users in their own homes brings the greatest risk of intrusion, and as such users must be able to remove software that enables such functionality completely.