

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

Item 1. Commenter Information

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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 4: Audiovisual Works—Educational Uses—Educational Programs Operated by Museums, libraries, or Nonprofits

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.

In order to use free software in museums, libraries, and nonprofits it is often the case that one must be able to move materials from one digital format to another. Otherwise, a user could be locked into using proprietary software to interact with media encoded in some file format. As such, it is vital that all individuals using works for educational purposes are able to circumvent access controls on lawfully made and acquired motion pictures and other audiovisual works for purposes of criticism and comment. The scope of this exception should be general-purpose use targeted toward all educational uses. The scope needs to extend to all formats of media, including "streaming" digital media in order to remain relevant to media distributed over the next three years.