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Mr. Carson,

I'm writing in response to the Library of Congress's request for comments regarding Section 1201(a)(1) of the Digital Millennium Copyright Act. As a citizen of the United States who earns my living through writing and maintaining software, among other types of intellectual property, this law concerns me greatly.

While not an attorney, my understanding of how this law is being interpreted currently in courts, for example in the DeCSS suit brought by the Motion Picture Association of America against many online providers and web page authors along with the authors of the original DeCSS code, in commentary by many pundits published throughout the technical press, and finally my own reading of the law, section 1201(a)(1), said law could give sweeping new powers and authority to those copyright holders who include technical provisions to prevent unauthorized copying and presentation of copyrighted materials to the detriment of "fair use" laws. This thwarts basic citizens' rights to access what they've purchased simply because it might violate a contractual requirement of the license, along with technical provisions included in the media content to enforce such a stipulation.

How will this affect the rights of citizens to use our public libraries? Will copyright owners now be allowed to contractually stipulate in their license that libraries, or their clientele, must purchase per use licenses to access copyrighted materials? Given the trend toward digital content over traditional printed publishing, this is not as crazy as it sounds. Within a few decades it's quite possible that publishing on paper, which I understand will not fall under section (1201(a)(a) and thus will continue to be available to public libraries under "fair use" guidelines simply because it lacks a technical mechanism for copy protection, may become outmoded as paper costs already far exceed the cost of distributing intellectual materials electronically. Should this take place 1201(a)(1) has the potential to essentially criminalize public libraries as we know them, forcing a dichotomy between those who can afford the per use costs charged by copyright holders against those who can't, while gutting a public infrastructure for the dissemination of new ideas.

Beyond public libraries, are we to accept the notion that

copyright holders should now have a new set of rights which not only limit under what conditions a licensee may copy works, but also when a licensee may access said works, where they may access said works, with what equipment they may access those works, and even limit the copyright holder's liability simply by the licensee opening a shrinkwrap license they can't even read until after the fact?

Because if it's acceptable that Sony, for example, can legally lock the contents of a DVD video disk through encryption under force of copyright law as a mechanism of copyright protection under 1201(a)(1), then how will consumers enjoy their basic rights for legally copying a "backup archive" of content for which they've purchased a license? Is it "fair use" to prevent consumers from accessing said materials through regional locks, or stipulating which hardware or software platform is legal for the reading of said disks? If so, consumers will be forced to purchase not only the content, but also a physical device and software from the content producer, thus limiting their right to enjoy the content to which they've purchased access with onerous new responsibilities and costs never previously required of consumers simply trying to gain legal access to copyrighted materials

Does the Library of Congress wish to allow the Associated Press the right to use copyright law to stipulate when and where a reader may access an AP newspaper story? If the AP can't use 1201(a)(1) to limit what kind of paper the newspaper publisher must use to print a story, nor where a reader may read, view, or otherwise enjoy printed materials to which (s)he has legally purchased access, why should they enjoy a right to limit said access electronically? In a near future of electronic newspapers and handheld electronic readers, already possible with the popular 3Com Palm Pilot, making obsolete the traditional printed daily will it be reasonable to allow the AP to include Global Position Satellite equipment in an electronic newspaper reader to enforce the provision that a news story must only be read in a certain city, state, or country if this electronic dissemination of the published materials meets 1201(a)(1)'s copyprotection guidelines? Will 1201(a)(1) allow the AP to force readers to purchase an AP approved electronic news reader as the only legal method for accessing AP published news? And given the sweeping new powers 1201(a)(1) allows if a restriction is specified in the a copyright license, can the AP prevent researchers the right to copy small pieces of a news story within todays "fair use" guidelines to cite a source within a research paper because of a combination of a contractual stipulation in the license and copy protection distributed with the intellectual property? How different are these scenarios from allowing Sony to stipulate under what hardware a copyright licensee may view a DVD video, or which country they in which they may enjoy access

to the materials they've purchased?

If enacted as written this could enforce a whole new monopoly for content producers and copyright holders, not just protecting the media content from illegal copying and bootleg sales, but also enforcing the sale of equipment which has been licensed strictly to access and view said materials. This will gut public access to copyrighted works in libraries, individual access to copyrighted works by consumers through open and public technologies, and doesn't even serve to protect the copyright holder's basic interest of preventing the *illicit copying* of privately owned intellectual property. It's strictly a new mechanism to force consumers to buy more equipment simply to enjoy access to materials already purchased, no different from Ford Motor Company mandating that Ford gasoline be used with a Ford car by force of law.

Copyright should not exist to enforce new restrictions beyond copying a privately owned intellectual work. If the Library of Congress, along with the legislative branch, enact new laws to expand the scope of Copyright law as defined in 1201(a)(1) the consequences for public access to information and discourse may be severe. Think carefully before enacting such laws as they may leave consumers and individuals in our society unable to join in basic public discourse. Every new financial wall enacted to prevent citizens from basic "fair use" rights to copyrighted works is potentially devastating to our public library infrastructure and thus damaging to public discourse and our very democracy.

Sincerely,
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