



# ANNOUNCEMENT

from the Copyright Office, Library of Congress,  
101 Independence Avenue, S.E., Washington, D.C. 20559-6000

REQUEST FOR PUBLIC COMMENT.

## REQUEST FOR COMMENTS ON SECTION 1201(G) OF THE DIGITAL MILLENNIUM COPYRIGHT ACT

The following excerpt is taken from Volume 64, Number 102 of the  
*Federal Register* for Thursday, May 27, 1999 (pp. 28802-28803)

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#### Copyright Office

[Docket No. 990428110-9110-01]

#### Request for Comments on Section 1201(g) of the Digital Millennium Copyright Act

**AGENCY:** Copyright Office, Library of  
Congress

**ACTION:** Request for public comment.

**SUMMARY:** The National Telecommuni-  
cations and Information Administration of  
the United States Department of Commerce  
and the United States Copyright Office invite  
interested parties to submit comments on the  
effects of Section 1201(g) of Title 17, United  
States Code, as adopted in the Digital  
Millennium Copyright Act, Pub. L. No. 105-  
304, 112 Stat. 2860 (Oct. 28, 1998)  
("DMCA") on encryption research and the  
development of encryption technology; the  
adequacy and effectiveness of technological  
measures designed to protect copyrighted  
works; and the protection of copyright  
owners against unauthorized access to their  
encrypted copyrighted works.

The DMCA, enacted on October 28, 1998,  
directs the Register of Copyrights and the  
Assistant Secretary for Communications and  
Information of the Department of Commerce  
to prepare a report for the Congress  
examining the impact of Section 1201(g) on  
encryption research and including legislative  
recommendations--if any--no later than one  
year after enactment of the DMCA. This  
Federal Register Notice is intended to solicit  
comments from interested parties on the  
effects of section 1201(g) of the DMCA.  
More specifically, how will the provisions of  
section 1201(g) of the DMCA affect

encryption research?

The DMCA defines "encryption research"  
as identification and analysis of flaws and  
vulnerabilities of encryption technologies  
applied to copyrighted works. This activity  
must promote understanding of encryption  
technology or advance the development of  
encryption products.

**DATES:** Comments must be received by  
July 26, 1999.

**ADDRESSES:** The Department of  
Commerce and the Copyright Office invite  
the public to submit written comments in  
paper or electronic form. Comments may be  
mailed to Paula J. Bruening, Office of Chief  
Counsel, National Telecommunications and  
Information Administration (NTIA), Room  
4713, U.S. Department of

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Commerce, 14th Street and Constitution  
Avenue, N.W., Washington, DC 20230; and  
Jesse M. Feder, Office of Policy and  
International Affairs, U.S. Copyright Office,  
Copyright GC/I&R, P.O. Box 70400,  
Southwest Station, Washington, D.C. 20024.  
Paper submissions should include a version  
on diskette in PDF, ASCII, Word Perfect  
(please specify version), or Microsoft Word  
(please specify version) format. Comments  
should be sent to both the Department of  
Commerce and Copyright Office addresses.

Comments submitted in electronic form  
should be sent to [dmca@ntia.doc.gov](mailto:dmca@ntia.doc.gov) and  
[crypto@loc.gov](mailto:crypto@loc.gov). Electronic comments should  
be submitted in the formats specified above  
and should be sent to both the Department of  
Congress and Copyright Office addresses.

#### FOR FURTHER INFORMATION

**CONTACT:** Paula J. Bruening, National  
Telecommunications and Information

Administration (202) 482-1816; and Jesse M.  
Feder, Office of Policy and International  
Affairs, US Copyright Office, Library of  
Congress (202) 707-8350.

#### SUPPLEMENTARY INFORMATION:

The National Telecommunications and  
Information Administration, United States  
Department of Commerce and the United  
States Copyright Office, Library of Congress  
invite interested parties to submit comments  
on the effects of the Digital Millennium  
Copyright Act (DMCA) on encryption  
research and development of encryption  
technology; the adequacy and effectiveness  
of technological measures designed to protect  
copyrighted works; and, protection of  
copyright owners against unauthorized access  
to their encrypted copyrighted works.

The objective of Title I of the Digital  
Millennium Copyright Act was to revise U.S.  
copyright law to comply with two recent  
World Intellectual Property Organization  
(WIPO) Treaties and to strengthen copyright  
protection for motion pictures, sound  
recordings, computer software and other  
copyrighted works in electronic formats. The  
DMCA establishes a prohibition on the act of  
circumventing technological measures that  
effectively control access to a copyrighted  
work protected under the U.S. Copyright Act.  
The prohibition, found in Section 1201 of  
Title 17, U.S. Code, takes effect October 28,  
2000, two years from the date of enactment  
of the DMCA.

The DMCA also makes it illegal for a  
person to manufacture, import, offer to the  
public, provide, or otherwise traffic in any  
technology, product, service, device,  
component or part thereof which is primarily  
designed or produced to circumvent a  
technological measure that effectively  
controls access to or unauthorized copying of  
a work protected by copyright, has only a  
limited commercially significant purpose or

use other than circumvention of such measures, or marketed for use in circumventing such measures.

Despite the general prohibitions of Section 1201, the DMCA permits certain specified activities that include the circumvention of access control technologies in limited circumstances. One such specified activity is good faith encryption research. The DMCA defines "encryption research" as identification and analysis of flaws and vulnerabilities of encryption technologies applied to copyrighted works. This activity must promote understanding of encryption technology or advance the development of encryption products.

The DMCA exempts from the general prohibition certain good faith activities of circumvention when: (a) The person circumventing the protection system lawfully obtained the encrypted copy of the work; (b) circumvention is necessary to conduct the encryption research; (c) the person circumventing the protection system made a good faith effort to obtain authorization prior to the circumvention; and, (d) such circumvention does not constitute copyright infringement or a violation of any otherwise applicable law. The DMCA also lists additional factors to be considered when determining whether a person qualifies for the exemption.

The DMCA also includes several additional exemptions from the general prohibition or circumvention. One such exemption is for security testing. Section 1201(j) of Title 17, U.S. Code permits circumvention of access control technologies in order to test the effectiveness of a security measure. Comments on Subsection 1201(j), the exemption for "security testing," and comments on exemptions other than the exemption for encryption research, are not being solicited by this Notice and will not be considered.

Information collected from responses to this Federal Register Notice will be considered when preparing the required report for Congress.

**Kathy D. Smith,**  
*Acting Chief Counsel, National  
Telecommunications and Information  
Administration.*

**Marybeth Peters,**  
*Register of Copyrights, United States  
Copyright Office.*

[FR Doc. 99-13439 Filed 5-26-99; 8:45 am]

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