
ADMINISTRATIVE DEVELOPMENTS

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U.S. Copyright Office Issues Notice of Proposed Rulemaking in the Eighth Triennial Proceeding Under Section 1201. The Copyright Office has published a notice of proposed rulemaking in the eighth triennial proceeding under section 1201 of Title 17. Section 1201 generally makes it unlawful to circumvent technological measures used by copyright owners to prevent unauthorized access to their works. Through the triennial rulemaking, the Librarian of Congress may, upon the recommendation of the Register of Copyrights, temporarily exempt certain classes of works from the statutory prohibition.

For the second consecutive rulemaking, the Office conducted a streamlined procedure to allow members of the public to request renewal of exemptions that were granted in the last proceeding. Based on the renewal petitions received and the lack of meaningful opposition, the Office intends to recommend readoption of all existing exemptions.

In addition, the notice outlines seventeen proposed classes of exemptions and initiates three rounds of public comment. Comments supporting adoption of a proposed exemption, as well as comments that neither support nor oppose an exemption, are due December 14, 2020. Comments in opposition are due February 9, 2021. Reply comments from supporters of a proposed exemption and parties who neither support nor oppose an exemption are due March 10, 2021.

Additional background information about section 1201 is available at <https://www.copyright.gov/1201>, which contains helpful resources, such as video tutorials, the Office's recent policy study on section 1201, and links to prior rulemaking proceedings.

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U.S. Copyright Office Issues Two Interim Rules and One Notice of Proposed Rulemaking Related to the Music Modernization Act. Pursuant to the *Musical Works Modernization Act, Title I* of the Orrin G. Hatch–Bob Goodlatte Music Modernization Act (MMA), the Copyright Office has issued two interim rules and one notice of proposed rulemaking.

The MMA directs the Office to adopt a number of regulations to govern the new blanket licensing regime, including regulations regarding notices of license, notices of nonblanket activity, usage reports and adjustments,

information to be included in the public musical works database, database usability, and interoperability and usage restrictions.

The interim rules are being issued after soliciting multiple rounds of public comments through a single notification of inquiry, two notices of proposed rulemaking (one for each interim rule), and engaging in numerous ex parte communications with commenters. The notice of proposed rulemaking is being issued after soliciting multiple rounds of public comments through two notifications of inquiry and engaging in numerous ex parte communications with commenters. The Office is now issuing:

- An interim rule regarding notices of license, data collection efforts, reports of usage and payment by digital music providers and related records of use, notices of nonblanket activity and reports of usage by significant nonblanket licensees, and data collection efforts by musical work copyright owners.
- An interim rule regarding the obligations of the mechanical licensing collective (MLC) to report and distribute royalties paid by digital music providers under the blanket license to make and distribute digital phonorecord deliveries of musical works to musical work copyright owners. The rule does not address the distribution of unmatched royalties after the prescribed holding period, which the Copyright Office will separately address, including through an ongoing policy study.
- A notice of proposed rulemaking regarding the categories of information to be included in the public musical works database, the usability, interoperability, and usage restrictions of the database, and proposed regulations in connection with the Office's general regulatory authority related to ensuring appropriate transparency of the mechanical licensing collective itself. Written comments had to be received no later than October 19, 2020, at 11:59 p.m. eastern time.