



## BLOGS

Legislation and Rulemaking

# FTC and DOJ Recommend Renewing and Expanding “Right to Repair” Exemptions Under the Digital Millenium Copyright Act

The U.S. Copyright Office is considering whether to recommend renewing or expanding current exemptions under the Digital Millenium Copyright Act (DMCA), and the Federal Trade Commission and the Department of Justice’s Antitrust Division have submitted comment regarding proposed renewal and expansion of the prohibition on circumvention of “technological protection measures” (TPMs).

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The U.S. Copyright Office is considering whether to recommend renewing or expanding current exemptions under the Digital Millenium Copyright Act (DMCA), and the Federal Trade Commission and the Department of Justice’s Antitrust Division have submitted a comment regarding proposed renewal and expansion of the prohibition on circumvention of “technological protection measures” (TPMs). United States Department of Justice (DOJ) & federal trade Commission (FTC), *Comment on Exemptions to Permit Circumvention of Access Controls on Copyrighted Works* (Mar. 14, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/ATR-FTC-JointComment.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/ATR-FTC-JointComment.pdf). The DMCA includes certain protections for software, including a prohibition on circumventing TPMs that protect software. The current Act contains limited exemptions from the prohibition that allow for “non-infringing diagnosis, maintenance, and repair” for certain computer programs. In their comment, the Agencies acknowledge that TPMs are useful for protecting against infringement, but the Agencies assert that they also prevent non-infringing self- and third-party repairs. The Agencies therefore recommend renewing and expanding exemptions to promote competition in repair markets, which they view as benefiting consumers and businesses.

Specifically, the Agencies recommended expansion of an exemption that currently exists for computer programs that control devices designed for diagnosis, maintenance, or repair of the device. While the current exemption is limited to computer programs *for use by consumers*, the proposed expansion includes commercial and industrial equipment. The Agencies also support adopting an exemption that allows vehicle owners or the repair shop of their choice to access, store, and share vehicle operational data. The Agencies argue the proposed exemptions would give consumers and businesses more choices for third-party and self-repair leading to cost savings and better return on investment, and minimizing costly downtimes. Additionally, more competition among repair and maintenance service providers, including the original equipment manufacturers, facilitates innovation, entrepreneurship, and competitive pricing. The U.S. Copyright Office is expected to hold public hearings on the proposed expansions in April 2024.

## Related People

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