

## **Fix the DMCA**

Section 1201 of the Digital Millennium Copyright Act (DMCA) of 1998 prohibits users from circumventing technological protection measures (TPMs) that control access to copyrighted works (think encryption or password protection). This prohibition applies even when the underlying use is otherwise lawful.

The only way to get around this prohibition is for advocates and users to petition for temporary exemptions through the triennial rulemaking process—a process that is burdensome, lengthy, and at times adversarial. And these exemptions last only three years, forcing advocates to repeatedly demonstrate the continuing need and justification for the exemption. For instance, every three years since 2003, disability rights advocates and library associations have petitioned the US Copyright Office for permission to access lawfully acquired ebooks using assistive technology.

To fix this, Congress could amend Section 1201 to permit TPM circumvention and distribution of circumvention tools that applies to all disability types and content formats, as follows:

### **(h) Accessibility for Persons with Disabilities:**

(1) Circumvention permitted—Notwithstanding the provisions of subsection (a)(1)(A), a person may circumvent a technological measure that effectively controls access to a work protected under this title if the circumvention is undertaken for the purpose of enabling access to or use of the work by a person with a disability in a format or manner that makes the work accessible to that person.

(2) Technological means for accessibility—Notwithstanding the provisions of subsections (a)(2) and (b)(1), a person may manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof that is used to make copyrighted works accessible to people with disabilities.

An even broader solution could be to allow circumvention of digital rights management as long as there is no intention of copyright infringement, as proposed by bipartisan members of Congress in the “Unlocking Technology Act.”