

## *Digital Rights Management and the Public Interest*

**Public Knowledge** seeks an equitable approach to digital content and technology. This approach would provide a “reasonably secure environment” for copyrighted works, while ensuring that citizens can continue to 1) make legal use of that content and 2) enjoy the flexible and open nature of computers and the Internet.

### **Digital Rights Management Systems (DRM)**

- DRM systems consist of a variety of copy protections and security measures that are embedded in digital content (*i.e.*, CDs, DVDs and online music), electronics and computers to prevent the duplication, transfer, or any use of content undesired by the copyright holder. DRM ranges from data placed on music CDs to prevent their functioning on computers and replication on CD burners to encrypted security codes and watermarks working in unison with electronic devices designed to prevent any copying or use not permitted by the content provider.
- DRM is not inherently flawed. However, the implementation of DRM, and the way in which it can limit personal use of and access to content can alter the balance of copyright policy too far in favor of copyright holders. ***Use of DRM should recognize the needs of copyright holders, technology developers and the needs and rights of the public.***

Protecting valuable content is important, but protection should not encroach upon fair use or individuals’ ability to benefit from the flexibility digital technology. Fair use includes, but is not limited to, time shifting (viewing a recorded program at more convenient time), space shifting (having a copy of a CD for your home and car), first sale (permitting sale by the purchaser of books, CDs, and DVDs, etc.), placing content into different formats (such as MP3 files), and the ability to excerpt content or modify content for the purpose of creating new works.

### **What DRM Can and Cannot Do**

- Before one can propose a solution to concerns over unauthorized copying over the Internet, it is important to recognize what DRM can and cannot do. First, and most important, ***DRM cannot stop all forms of piracy.*** Indeed, DRM would not stop physical piracy, which industry executives admit is their biggest problem – costing the movie industry \$3 billion annually. In addition, DRM cannot prevent recording a movie with a hand-held camera and placing the film on the Internet and insider copying of master recordings.
- What DRM can do, in addition to preventing illegal unauthorized uses of digital content, is prevent legal uses as well. For example, copy protected CDs can prevent individuals from playing them in their cars as well as their homes. Encrypted DVDs can prevent viewing on a Linux-operated computer. DRM can also track every use of digital content; including how many times it is used and when it is used.

### **Legislating DRM**

- Government-mandated DRM is unwise, and in any event, premature. Currently, none of the content industries are successfully using DRM to stop all unauthorized copying. Indeed, many of these companies remain unsure as to what technology they want to adopt. For these reasons, locking in a standard at this time would be bad industrial policy.

### **DRM and Technology Development**

- DRM and legislation mandating it are not solutions to the real and imagined problems surrounding the rollout and adoption of **Broadband** and **Digital Television** (“DTV”). Some industry representatives claim that consumers are not adopting these technologies because of a lack of “high value” content, and that industry will not provide that content without mandated DRM. In fact, provision of such content has little to do with consumer acceptance of these technologies.
- Adoption of broadband has outpaced the adoption of every new technology except cable television, and its use has quadrupled in the last 2 years. Broadband use is most heavily dictated by cost - as costs become lower, greater consumer adoption is predicted. DTV adoption suffers from many hurdles, including cost barriers, lack of consumer awareness, disputes over technological standards, and television sets that do not include a DTV receiver. ***Easier access, education and lower prices will encourage more people to adopt these new technologies – improperly implemented and overly restrictive DRM will only slow adoption by making access more difficult and use more limited.***

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