



## **Intellect submission to the All Party Parliamentary Internet Group (APIG) Inquiry into Digital Rights Management**

Intellect is the trade association for the UK hi-tech industry. Membership comprises organisations both large and small from the UK's information, telecommunication and electronics sectors.

Intellect should like to thank the All Party Internet Group for the opportunity to provide input to the inquiry into Digital Rights Management (DRM) and is pleased to provide the following comments:

**1. Digital rights management (DRM) is not a uniform system, but a wide range of technologies and usage options, all of which are improving over time.**

DRM is an enabling technology that is relatively new and will evolve over time. In essence it is a set of technologies that enables individuals to protect private information and content owners to protect their intellectual creations and, if they so choose, to allow others controlled rights of access, under commercial or non-commercial terms, in the digital age. DRM is an essential tool for ensuring that content owners can ensure a return on investment in a digitally enabled knowledge economy.

In thinking about DRM technologies one may find it helpful to think of it as a broad spectrum of technologies; ranging from those which simply express the creator's intent to those which include sophisticated technologies designed to ensure that the content owner's intent is honoured.

DRM technologies enable content to be delivered in ways tailored to suit the consumer's specific requirements. These new offerings allows consumers to pay only for the kind of use they actually want. This will allow different business models to emerge.

Most users' familiarity with DRM technology is currently rather limited, and DRM is often viewed as simply taking away one's ability to share protected music or video. However, as DRM technologies evolve, the current DRM solutions not only become easier to use, but new DRM applications enable both enterprises and individuals to protect their own information (whether it is their banking info, personal data, medical records, business data or their own intellectual property). Over time there will be an increased awareness and acceptance of the positive benefits these technologies can provide.

Virtually any technology can be abused, or used inappropriately in certain circumstances. Familiarity and increased awareness will help reduce such issues. This is true not only from a

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user's perspective but also from the perspective of technology developers, content owners, distributors, etc.

- 2. DRM enables applications such as digital libraries, for example, which give consumers easy-to-use access and protect publishers against uncontrolled distribution.**

Much of the discussion of DRM technology, its ease of use, handling of privacy related information, limitations on sharing, etc. has become unnecessarily complex leading to unwarranted concerns about its implications. A simple example of the usefulness of DRM, for example, is its use in the lending of digital books (both audio and text) by many US libraries. The deployment of DRM technologies has enabled a cost efficient model for libraries to purchase digital works from their publishers/distributors and to allow users to enjoy the experience of borrowing a book without physically visiting the libraries' buildings.

Over 1,000 US libraries have had tremendous success in offering patrons the opportunity to 'check out' (at no cost) DRM-protected digital works for a given time period. At the end of the lending period, the user can simply let the licence expire—thus easily completing the 'return' of the work as the copy becomes inaccessible or unusable—or renew the licence, if no other patron is on a waiting list for that item. Libraries are able to maintain electronic waiting lists for popular digital works and now have the ability to automatically notify the next patron on a waiting list that the work is available. Libraries can now accurately monitor the demand for various works.

There is much that can be learned from such deployments. It seems that when users are offered access to DRM-protected content without charge, user satisfaction is very high and there seem to be minimal concerns about any differences in permitted uses of the digital works versus those of a physical copy of that work. Libraries are able to offer works that don't age (no torn or defaced pages, scratched CDs, or stretched cassette tapes). Publishers are able to sell and distribute their works cost effectively.

- 3. Perceived problems can be resolved through better awareness, familiarity and market experience**

DRM ecosystems are still quite new, and both positive and negative aspects exist. Over time as users are increasingly given the opportunity to give or withhold consent regarding the sharing of their personal information and to make informed buying and leasing decisions based on portability, cost, and ease of use, many of the current concerns will be reduced. Ultimately it will be the increased awareness and familiarity with the technology that will stimulate the growth of appropriate DRM solutions rather than regulations and government intervention.

A common concern that is raised around DRM is: *How are consumers protected when DRM systems are discontinued?* There are similar concerns sometimes raised about specific implementations and formats and about 'lock in' to specific technologies. Ironically, it can be far simpler to ensure continued access in the digital world than it is in the non-digital world. DRM systems which are widely used are more likely to include assurances and documentation

on how the technology can be deployed to ensure that content could be accessible by licensees, should the distributor go into liquidation.

In all events, such conversions should not be mandated. Such portability can be implemented in a variety of ways and can exist both where DRM technology is and isn't deployed. Content owners may wish to sell content formatted and protected in a single way for one price and also offer more flexible versions at additional cost. Indeed, the very strength of DRM is to promote a wider range of choices for consumers, whereby more restricted uses cost less than flexible or unrestricted uses.

Modern, flexible DRM systems could enable content to be priced in various ways for differing sets of rights. (e.g. a specific song could be sold at a very low price point with minimal rights and at higher price points for the same content with increased rights such as unlimited time and portability.) Initially, consumers may be confused by various pricing schemes, so it is important that content retailers establish good practices and clearly communicate any conditions, environments and limitations. This must be done without cumbersome legal texts and to avoid inaccurate expectations of their offerings.

**4. The answer to certain groups' particular needs lies in the DRM technology itself, not in compromising the technology or limiting licensing choice.**

DRM does not have its own moral or legal perspective. It is a technology that behaves as the content owner or distributor programs it to do. The issue of exceptions for special-needs groups is connected to this, and highlights that the key to all such issues lies in the DRM technology itself.

For example, it is quite possible, using rights languages, to enable DRM systems to exempt some groups of users from the types of usage rules that might be appropriate for the general public. Similarly, using more sophisticated DRM technology, it is entirely possible to grant all users somewhat more generous and creative uses than the most restrictive single play, no copy scenarios sometimes found today. In other words, it would be possible, using a rights language, to enable members of particular groups (e.g. those having paid a special fee or otherwise having some entitlement, perhaps by affiliation) to authenticate themselves and then benefit from almost unrestricted usage. However, in so doing, one may wish to deploy some kind of tracking system to ensure that content that is made available to a particular group (such as students, academic researchers or the visually disabled) is not misused or made available outside of those particular environments.

Some have suggested that clever licensing terms could obviate the need for DRM? The Creative Commons Licence, for example, is an interesting offering which enables a content owner to express a (limited) set of terms under which the content can be redistributed. It does not rely on the application of any technology to ensure that the content owner's intentions are honoured. The Creative Commons as well as any other similar mechanisms for expression of the content owner's intent are reasonable elements of a Rights Management environment. Such initiatives ought not to be an exclusive alternative, however, but rather one option among a variety of rights licensing options for content owners. There are environments where such an expression of intended uses is sufficient, and others where technological support (or enforcement) of the creator's intentions is needed.

It would be reasonable, for example, to anticipate a new artist wanting to get the widest distribution for his work by making it available under a non-commercial Creative Commons type licence. After gaining sufficient demand, the artist might then want to begin releasing material with DRM support rather than simply expressing intent via a licence without technological enforcement. These options should be left to the content owner (creator/distributor) and to consumer choice.

Standards and mechanisms for expressing intent are an important element of improving the efficiency and public understanding of DRM deployments. Understanding the terms associated with a digital work is key to having informed users. Informed users are needed for the market to sort out which usage models are viable and standards can play a role in establishing usage rules in an intelligent way.

**5. There are some underlining principles that Intellect believes are important to ensure ongoing DRM innovation which will deliver most benefits for consumers:**

- DRM technologies enable content creators/owners/distributors to offer increased consumer choice, product variety and pricing options. DRM also enhances security and privacy. The UK government should continue strongly to support the deployment and protection of DRM technology, as it consistently has done to date in international negotiations such as the WIPO Treaties, and in existing EU directives.
- Government shouldn't pick winners by mandating technologies. DRM development and deployment must remain voluntary and market-driven. Government-mandated technologies quickly become outdated, depriving consumers of new features, increased functionality and potential benefits from new products.
- One of the Government's concerns should be ensuring that the established "common sense" practices of consumer protection are respected in selling DRM protected digital content.
- Interoperability among DRM technologies needs to develop through industry led efforts, not by regulation or government imposed standards.
- The ongoing development of industry-led international standards should be supported by the UK Government and interested influential groups like APIG.

20 January 2006

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