

# Digital Rights Management

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Technological measures used in connection with the distribution of music and other copyright works are an essential tool enabling the development of a flourishing digital music market. These measures, broadly known as digital rights management (DRM), may also encompass the narrower concepts of technological protection measures (TPMs), copy control technologies (CCTs), and rights management information (RMI).

What are these technological measures and what do they do? Simply put, they implement the varying terms and conditions on which copyright content is made available. In many ways, they are analogous to rules of retail establishments and performance venues in the bricks-and-mortar world, but permit much greater flexibility. It is no longer necessary to be limited to a single price for the viewing of a performance or the retention of a permanent copy. With DRM, consumers can be offered a wide range of options, involving different levels and durations of use for different prices. They may choose to purchase a disc, burn a copy, subscribe to a monthly service, listen to streamed music, or download singles or albums. Payments can be tailored to usage, benefiting consumers and rightholders alike.

DRM technologies perform several beneficial functions. Most important, they allow works to be enjoyed at different prices for different levels of use. They streamline processes for agreeing on terms and conditions of use, and for licensing, billing and royalty payment. And they prevent indiscriminate dissemination of copyright works in today's world, where digital technology makes it possible to make and distribute multiple perfect copies with the press of a key. DRM provides the means for keeping a subscription as a subscription, a rental as a rental, and a download to one customer from becoming an upload to the rest of the world. In essence, DRM enhances the consumer experience while safeguarding the continued economic viability of copyright.

## DRM as a fundamental building block of today's legal offerings

DRM is not a new development. It has already been widely accepted in the marketplace in connection with legal online music services as well as many forms of physical carriers. Consumers understand that when they purchase music online, their chosen form of enjoyment comes with certain functionalities and certain restrictions, reflecting the bargain they have struck. Thus, they may pay one price to experience the music by listening to streams, another to retain copies temporarily, and another to burn up to three permanent copies. The DRM is part of the background, designed to be transparent and not distract from the user experience.

DRM is working in the market. Digital music services have flourished, due to the appeal of their flexible offerings. Hundreds of legitimate online services are now available globally; record companies have licensed more than 2 million tracks for consumers to enjoy; and the number of tracks downloaded has more than doubled in the past year (reaching 420 million).

As to physical carriers, DVDs and videogames have always been protected by copy controls, and consumers are accustomed to that fact. More permissive technologies for managing the copying of CDs have also been extensively deployed by some record companies in some regions.

### Legal framework for effective and appropriate DRM

The deployment of DRM technologies raises a number of legal issues. It is clear that the law must protect the technologies against circumvention, or else their value will quickly be nullified, as rightholders are inevitably caught up in an endless game of cat-and-mouse with would-be hackers. For this reason, the 1996 WIPO Internet Treaties require countries to prohibit such circumvention. This concept is not novel, but has been tried and tested in the context of commercial services such as pay broadcasting and other conditional access services. If the legal protection is to be effective, it must outlaw the provision of devices or services that enable consumers themselves to engage in widescale acts of circumvention. This reality has been recognized in the predominant approach to such legislation in countries around the world, including the EU and the US.

As with all technology, DRM is neutral in that it can be designed and implemented in different ways—some more permissive and some more restrictive. But real-world market pressures should lead to reasonable implementations. The business imperative for record companies is to maximize the sale of music. If any particular DRM gives the consumer a bad bargain, the consumer will walk away—and that DRM will quickly become a thing of the past. Flawed or draconian DRM will not survive. As an additional safety valve, many countries have put in place mechanisms for government oversight to guard against negative repercussions from overly strict application of DRM. These mechanisms in turn serve as an additional incentive for the adoption of moderate DRM systems.

### Misconceptions about DRM

The subject of DRM has recently become controversial, with fears being voiced about the possible use of DRM to cause a variety of ills. These range from blocking access to content, to endangering computer security, misleading users, threatening privacy, frustrating interoperability, or eliminating exceptions to copyright. None of these potential problems are inherent in DRM systems, however, and record companies seek to deploy DRM in commercially sensible ways that do not lead to such results.

First, no record company is in the business of blocking access to content. Rather, the purpose of DRM is to increase and enhance access to music in multiple ways. As to security concerns, DRM technologies are no more insecure than other software products, all of which can be developed and tested sufficiently so as to avoid unacceptable risks. Consumers should be provided with adequate information when deciding to purchase a product that implements DRM. To that end, IFPI has adopted labelling guidelines for clearly indicating key features of copy control technologies when applied to CDs. The record industry is also committed to respecting user privacy, and does not use DRM to inappropriately gather personally identifying information.

Nor should DRM stand in the way of interoperability—a key goal of the record industry. Consumers should be able to enjoy the music they buy on a wide variety of devices and services. This goal can be achieved even with the use of proprietary DRM systems, as long as technology providers agree to make their systems work together. In the meantime, we are working to improve the situation by licensing content onto all platforms and by contributing to cross-industry standards development.

Finally, DRM can and should allow consumers to enjoy the experience of music in diverse and flexible ways. DRM is used today not just to restrict copying and distribution, but also to enable many uses that go well beyond the technical limits of copyright exceptions. These expanded uses may include making multiple copies in different formats for personal use, or appropriate sharing with friends and family. In some circumstances, use without any payment is accommodated—for example, sampling a recording for a period of time to decide whether to buy.

### The path to a secure and vibrant digital future for music

The role of DRM in developing digital markets has been a striking success. A variety of new online distribution models are thriving, and more music is available to the public than ever before in more formats and distribution channels. It is critical to ensure that DRM can continue to be deployed to maximize consumer options while respecting copyright. This requires providing leeway for the ongoing evolution of acceptable marketplace solutions, backed up by effective legal protection for the technologies on which they rely.