ALA American Library Association
Digital Rights Issues

The purpose of DRM technology is to control access to, track and limit uses of digital works. These controls are normally imbedded in the work and accompany it when it is distributed to the consumer. DRM systems are intended to operate after a user has obtained access to the work. It is in this "downstream" control over consumer use of legitimately acquired works that DRM presents serious issues for libraries and users.

DRM technology is new and evolving. Different schemes are being proposed, developed in the laboratory, and experimented with in the marketplace. In general, these technologies are intended to be flexible and to provide a wide range of options to the content provider, but not the user or licensee. Importantly, DRM technology can have profound effects on a wide range of policy issues, including intellectual property, privacy, access to government information, and security. As a consequence, it will be very important for Congress to carefully consider the impacts on many different constituencies, including libraries.

Key concerns for libraries

The principal policy issues for libraries and schools are not derived from DRM technology, itself, but from the business models the content industry chooses to enforce. DRM has uses far beyond simply enforcing traditional and long-standing protections extant in current law. By embedding controls within the product, providers can prevent the public from use that is non-infringing under copyright law as well as enforce restrictions that extend far beyond those specific rights enumerated in the Copyright Act (or other laws). Thus, DRM changes the fundamental relationship between the creators, publishers, and users, to the detriment of creators, users, and the institutions that serve them. DRM, if not carefully balanced, limits the ability of libraries and schools to serve the information needs of their users and their communities in several ways by:

Eliminating the "First sale" doctrine by limiting the secondary transfer of works to others. First sale has been for centuries a bedrock principle governing the balance of rights between consumers and sellers of information products. It is first sale that allows people to share a favorite book or CD with a friend and that creates secondary markets for works. It is first sale that allows libraries to loan lawfully acquired works to the public.

Enforcing a "Pay-per-use" model of information dissemination that, if it becomes the dominant or even sole mode of access, will be contrary to the public purposes of copyright law. It should not be the business of government to favor or enforce any particular business model in the information marketplace, particularly one that raises major issues of equity and potentially severe economic consequences for public institutions.

Enforcing time limits or other limitations of use that prevent preservation and archiving. Many market models of DRM distribution systems envision content that essentially disappears after a specific period of time or number of uses. DRM technologies can also prevent copying content into new formats. Such controls will prevent libraries, historical archives, museums, research institutions, and other cultural institutions from preserving and providing long-term access to the knowledge products of our society. From the days of the Great Library of Alexandria, society has turned to such institutions to preserve its cultural heritage and provide access to it. There is no evidence that alternative organizations currently exist or will form to play that role in the digital pay-per-use world.

Eliminating "fair use" and other exceptions in Copyright Law that underpin education, criticism, and scholarship. DRM technology can prevent normal uses of works protected by copyright law, such as printing or excising portions for quotation. For libraries and schools to serve their educational, research, and information roles, the public must be able to use works in the full range of ways envisioned by the Copyright Act in its limitations and exceptions.

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