

This is an extremely significant transition period for music fans and the music industry, and an excellent time to question so-called ‘Digital Rights Management’ technologies. Sales of music on physical media are in decline, and the market for online downloads is expanding. This implies that DRM is expanding as well. Compact Discs, the dominant format of recorded music for nearly two decades, have absolutely no copy protection: the CDDA standard simply does not provide for ‘rights management’ of any kind. In spite of recent developments to the contrary, however, online music distributors are still heavily invested in DRM; so are all competing next-generation physical formats. Moreover, the emphasis in Windows Vista on enforcement of DRM means that many consumers are likely to encounter unexpected new restrictions on their legally-purchased music and videos. Thus it seems worthwhile to rehearse some of the most compelling arguments against this restrictive technology. I see these arguments as falling into three broad categories, from which one is no doubt free to pick and choose according to one’s own leanings.

1. Consumer

Music fans tend to reject DRM for a number of reasons. From a consumer perspective, DRM limits the value of digital downloads in ways that older formats never did. Often, it ties users to one company and its audio device. This is most evident in the case of Apple’s Fairplay: with this system, music purchasers are tied to the iTunes software, its Music Store, and the iPod. Customers wishing to play ‘protected’ music on non-Apple software and devices may readily burn their files to a CD and rip them to MP3 format, or use software which strips the DRM from the files (PlayFair, QTFairUse). Both actions, however, constitute circumvention of copy protection. Technically, such acts are no less unlawful under the Digital Millennium Copyright Act (DMCA) *than simply downloading the content illegally!* The customer’s access to their music may also be tied to the longevity of the retailer. When Microsoft shut down its MSN Music service, for instance, individuals who purchased DRM-protected music from the site were eventually unable to move their files between computers or retrieve them after a change in operating systems. Finally, DRM makes it effectively impossible to play a protected file on an open-source operating system such as Linux, at least without breaking the law as mentioned above.

2. Business

From the business perspective it must be acknowledged, first and foremost, that DRM simply doesn’t serve its ostensible ‘purpose.’ DRM has *never* prevented a file from being leaked to filesharing networks. Hackers regard such protocols as a wonderful challenge, gleefully defeating many of them within days of - sometimes even days *prior to* - their official release dates. The high cost of developing and maintaining these systems (European distributor Musicload claims that 4/5 calls made to its tech support department are DRM-related), simply makes DRM a losing financial proposition for the very rightsholders it supposedly protects.

The general dissatisfaction of consumers constitutes an equally compelling incentive for business to abandon the technology. Music fans are unlikely to pay for the limited and potentially *revocable* privilege of owning DRM-protected files when they have ready access to unrestricted content on P2P networks. Fortunately, these arguments against DRM technology have led certain major distributors (iTunes, Amazon, eMusic) to forgo its use on some or all of their tracks. eMusic, the second-largest online distributor, is something of a special case: its entire catalogue is composed of non-RIAA artists, and so it has never used DRM. The RIAA and its artists are still *generally* in favour of DRM, having only selectively given in to pressure from giants iTunes and Amazon. Nevertheless, in this respect online distributors have actually exercised, and continue to exercise a good deal of influence on the recording industry (see Steve Jobs' 'Thoughts on Music').

3. Social

A number of the arguments suggested above imply broader, social critiques of DRM. Clearly, there are anti-trust issues with the forced bundling and integration implied by certain DRM technologies, alongside other legal issues in cases of corporate overreach (eg. the Sony-BMG rootkit scandal). Still stronger criticisms of 'digital restrictions management' have been voiced by organizations like the Electronic Frontier Foundation and Free Software Foundation. They note that DRM, in conjunction with the 'anti-circumvention' provisions of the DMCA, allows for arbitrary *de facto* extensions of copyright law. The DMCA makes it illegal to circumvent DRM, *even* for purposes the same Act defines as 'fair use:' from such banal activities as backing up a CD or burning a mix, to such significant ones as commentary, documentary, or parody. The potential chilling effects of such corporate 'legislation' on a burgeoning network culture simply cannot be understated.