

Digital Rights Management – Is this the new balance between the author's exclusive rights and their limitations?

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Main questions of the presentation

- Balance between the exclusive rights of the author and the limitations thereof
- Change of the balance in the digital and the on-line environment
- Change in the regulatory approach
- The new regulatory environment from the point of view of the users



Digital Rights Management System in a copyright approach

**= technological mechanism to serve
and to secure the electronic
commerce**

-> not exclusively legal/copyright-natured
phenomenon



Main tasks of DRM in the field of copyright

1. To identify

- the intellectual creations,
- the rights concerning these,
- the authors and other right owners.

2. To secure

- the technical enforcement of copyright,
- the exceptions and limitations.

Technological and business functions of DRM

1. safe commercial and non-commercial distribution of works
2. general copy protection without respect to free use
3. protection of unity, integrity, originality of the work
4. rightsclearing, identification of relevant information
5. possibility of electronic payment

Effective technological measures (1., 2., 3.)

means any device, component, method or technology, that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works, which are not authorized by the copyright holder. Technological measures shall be deemed effective where the use of a protected work is controlled by the rightholders through application of an access control or protection process, in particular encryption or other transformation of the work or a copy control mechanism, which is suitable to achieve the protection objective. [CA (3) § 95]

Rights management data (4.)

Rights management data shall mean all particulars provided by the rightholders which identify the work, the author of the work, the owner of any right in the work, or inform about the terms and conditions of the use of the work, including any numbers or codes that represent such information, when such data are attached to a copy of the work or are made perceptible in connection with the communication of the work to the public. [CA (2) § 96]

The three levels of free use

1. **No access:** contract AND the place and time of access is chosen by the public individually
2. **Limited access:** reprography, building archives, larger citations, persons suffering from a disability, use in administrative, parliamentary or judicial proceedings
3. **„Normal” access:** WITHOUT DRM

Problems to solve

- DRM functions that are NOT copyright-natured with restricting effects (no copyright solution)
- Limited opportunities for free use (new economic models - new balance?)
- Administrative regulation is out of use among the beneficiaries of free uses (more comfortable to infringe the protection?)
- Sanctions without preventing effects (Criminal Code has no effect if it is not applied by judges)



*Thank you
for your attention!*



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