**Digital Rights Management**

Digital Rights Management (DRM) is most frequently used to encompass not only (technical) anti-copying protection measures but also the electronic administration of contractual rights. DRM systems are being developed to facilitate the licensing and acquisition of rights through technical means, while also preventing by those means unlawful use of content protected by such rights.

**What do broadcasters need?**

The success of the Information Society depends on content (and not just premium content) offered to consumers. Broadcasters have demonstrated that they are a crucial and effective providers of successful investment in original domestic (i.e. local, national and European) content of quality. On the other hand, citizens will embrace new services and technical devices only if these allow them easy access to interesting content of quality. This generally desired widespread access to new media services will (continue to) require that such services be made available on a non discriminatory basis to the general public.

Consequently, with a view to facilitating new digital services provided through (fixed or wireless) interconnected networks, the abuse of proprietary rights, of whatever nature, must be prevented effectively in order to avoid undesired "gatekeeping" effects. The increasing need for such openness requires not only the acceptability of future DRM systems by all stakeholders, including consumers, but also the full compatibility of such systems with basic principles of copyright law.

**What are the current deficiencies?**

*- Avoid the "technological lock-up"*  
The first and main objective of making the rights acquisition and licensing process easier is generally shared by everybody. However, DRM is only a complementary (technical) measure and cannot   and certainly should not   be used to overrule the legal framework for copyright. It is of prime importance that any DRM system should include safeguards for traditional exceptions or limitations under national copyright laws. When acts permitted by law, such as use for quotation or critical review, for reporting on current events or within other limitations in the public interest, are adversely affected by technological protection measures, effective legislative action must be possible to remedy such situations.

*- DRM must be appropriate to the actual piracy threat*  
Although DRM systems can be used as an additional means to combat piracy, it is not sufficiently realized that actual piracy of premium content (new feature films or music CDs) takes place long before such content is broadcast, e.g. immediately after or even before the official film or CD has been released. Free to air broadcasters are at the very end of the exploitation chain and cannot possibly be held responsible for such illegal activity. Consequently, it would not be realistic or appropriate to expect that such piracy could be effectively prevented at the stage of free-to-air broadcasting and, therefore, DRM should not be imposed on free-to-air broadcasters, through either contractual or regulatory means.

*- Full interoperability based on non-proprietary standards is the key issue*  
To achieve a positive impact on the transition from analogue to digital broadcasting, broadcasters' active implementation of any DRM system will depend on the openness and interoperability of the technology in question. Today, the most obvious obstacle to the development of pan-European markets and content services, similar to digital interactive television services, is the lack of full interoperability. While the EBU maintains its desire for an open, non-proprietary DRM standard, in order to guarantee the necessary interoperability, the key players in the relevant industries have not, so far, shown sufficient readiness to cooperate on that objective.

European or national competition law (e.g. the so-called "essential facilities" doctrine) cannot provide sufficient support in this matter, as it would apply only, and under certain conditions, to abuses of a dominant position.

**What needs to be achieved?**

In general policy terms, national agendas or EU level initiatives (regulation, pilot projects, exchange of best practices, etc.) should include the point that the development of DRM systems for digital broadcasting keeps broadcast reception technology attractive for all viewers and listeners, via open and interoperable standards, and provide equal access for broadcasters to all media platforms (e.g. terrestrial, cable, satellite, UMTS).

Moreover, DRM schemes should foster the principle of the free flow of information within Europe, and should therefore not limit free to air broadcasting via satellite. Consequently, any such technical solution must allow the broadcaster itself to decide whether or not it wishes to encrypt the broadcast signal at the source.

Other basic principles and requirements which any DRM system would need to respect before such technical measures could be proposed for digital broadcasting include the following:

* Any DRM system should respect the underlying principles of European Community law and policies, such as the free movement of broadcasting services, on the basis of the country of origin principle;
* Any technical protection measure proposed for broadcast content must be strictly limited to addressing unlawful redistribution via on-demand services over the Internet;
* Any DRM system should respect consumers' interests in privacy and thus include safeguards for anonymous reception and consumption of broadcasts.

**For further information:**

**EBU position papers:**

* EBU Comments to the Public Consultation on the EC Commission's (DG Competition) discussion paper on the application of Article 82 of the EU Treaty to exclusionary abuses (24.3.2006)  
  [Download](http://www3.ebu.ch/files/%7Bworkspace%7D/sites/ebu/files/Knowledge/Media%20Law/Position%20Papers/20060324_EBU%20comments%20Article%2082.pdf)
* EBU Memorandum on Digital Rights Management (20.5.2003)  
  [Download](http://www3.ebu.ch/files/%7Bworkspace%7D/sites/ebu/files/Knowledge/Media%20Law/Legal%20Topics/Copyright/20030520%20EBU%20Memorandum%20on%20DRM.pdf)

**Publications/speeches**

* EBU Observations on the Final Report on the High Level Group on DRM  (14.9.2004)  
  [Download](http://www3.ebu.ch/files/%7Bworkspace%7D/sites/ebu/files/Knowledge/Media%20Law/Legal%20Topics/Copyright/20040914%20EBU%20obs%20final%20report%20of%20High%20Level%20Grp%20on%20DRM.pdf)

**Reference Text**

* Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001on the harmonisation of certain aspects of copyright and related rights in the information society  
  [Download](http://www3.ebu.ch/files/%7Bworkspace%7D/sites/ebu/files/Knowledge/Media%20Law/Legal%20Topics/Copyright/20010622%20Dir%202001.29.EC.pdf)