



# Digital Rights Management and Intellectual Property Rights

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## The Westminster eForum Seminar Series

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Striking a balance between a good deal for consumers and enough commercial rewards to encourage continual innovation is one of the critical issues for Intellectual Property Rights (IPR) and associated new business models in the digital age. Bill Gates insists that capitalism is the engine of global innovation. Firms need to get 'fair market value' for their work or commercial progress will stagnate without incentives to drive it forward.

But too often 'fair market value' assumes that an industry has a God-given right to exist in its current form, e.g. with excessively high profit margins or protection by unreasonably long patents or copyrights. In the music industry, for instance, there's no particular reason why a few individuals couldn't earn less and a far greater number earn more. The present arrangement which vastly overpays a minority does not guarantee better quality than other conceivable musical creative systems. After all, are today's footballers better than Stanley Matthews just because they earn thousands of pounds a day?

Take software as a live example. Salesforce.com disrupted the traditional Customer Relationship Management (CRM) business with a much cheaper, pay-as-you-go web-based model. Now the CEO of open source upstart Sugar CRM says that by giving away their software for free and making money purely from services: "We're turning a \$10bn market space into a \$1bn market space."

But as old value is destroyed, new value takes its place. Far from cannibalising existing revenues, selling video content on iTunes has actually increased US broadcast viewing by bringing in fresh audiences that wouldn't have otherwise watched the shows. What is 'fair market value' anyway? Surely what counts is 'fair price' from a consumer's point of view. For one thing, I would argue that the value proposition for digital content which isn't locked into proprietary, competing DRM formats and standards, and which doesn't

restrict what consumers can do for their own personal use would be greater. And what of 'global innovation'? Surely the best way to encourage more of it is to go with the grain of the fastest growing network in human history which has generated an extraordinary amount of innovation and new, greater business opportunities as a result.

The Internet's very foundations were built not on monopoly rights but on freely shared ideas – from Perl, Sendmail and Apache software to the web itself. And an enormous amount of commercial success online has been based on similarly open principles of trust and reciprocity. eBay's peer review reputation system for instance. Or open-source software development: technology firms from IBM to Red Hat have proved that healthy returns can be had by wrapping new products and services around a commodity which was once paid for but is now available for free. (Even the recent high profile success of the Arctic Monkeys highlights again the straightforward promotional benefits of giving away sample content online so consumers can spread the word hyper efficiently).

Part of the problem with the current approach of copyright owners is that it's completely out of tune with the culture that fostered this underlying innovation and commercial success. In place of openness and trust there seems to be a fixation with control and limitation and a DRM philosophy that all consumers are guilty until technically forced to be innocent.

Perhaps the simplest explanation is that short-term profits are getting in the way of longer term thinking. As telecoms analyst David Isenberg once observed: "the milk of disruptive innovation doesn't flow from cash-cows." Unfortunately, this means that rather than spurring greater innovation and online opportunity, these vested interests are over-controlling the flow of ideas in cyberspace and trying to make new technology-based copyright controls support old IPR laws and business models. The very real danger is that too much electronic protectionism could limit the tremendous possibilities and future value of this extraordinary social, cultural and commercial phenomenon, the Internet, for both consumers and business. And if anyone thinks that there aren't entirely new digital business models out there for copyright holders, consider the one and a half billion dollar market for the new ten-second pop songs ringtones that didn't exist at all a few years ago. For IPR in an information age, the times, as Bob Dylan once observed, are 'a changing, and only the business models that change with them will survive.

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