TO DRM OR NOT TO DRM – THAT IS NOT THE QUESTION. THE QUESTION IS HOW TO DRM

Jan Samzelius, CEO, ByteShield, Inc.

Is being at odds with your customers normally a good idea? The answer is surely an emphatic "No". In my 30 years of experience in consumer marketing and related fields, I have never seen a situation as consistently poor as in PC games. Staggering numbers of gamers hurl invectives at the publishers who often ignore the outcry and continue existing policies. What is the source of all this conflict? In a word, Digital Rights Management (DRM) also known as copy protection. Or as the gamers call it "Digital Restrictions Management" or "Dumb Relationship Management".

DRM as currently implemented in leading titles, is, in the view of many, a total failure. Not only does it treat honest users badly, it also has virtually no impact on piracy. Cracked copies routinely appear on torrent sites very soon after release. An argument can be made that the current DRM solutions actually encourage piracy, because it makes many honest users turn to downloading cracked versions as they are much more convenient than their protected counterparts. 'Craig' commented on a TechDirt article: *"Pay 50 bucks, get several headaches, and have a program that may or may not run properly at any time; a program which you have spent 500% more time doing research to fix all the problems than actually playing. **OR --** Visit TPB.org, download for free, have no DRM and no issues and start enjoying the game almost immediately."* Some buyers of a game put the legal copy in the bookshelf and download a cracked version in order to avoid having to deal with the DRM.

Making the situation worse is the way companies have been responding to complaints about the DRM they're using. Ubisoft and now Electronic Arts (EA) ignored or dismissed problems with their DRM (Starforce and now SecuROM) for months or years until lawsuits arose. It shouldn't come to that point. Ever.

In 2008, the problems with DRM for PC games reached new heights. Numerous fiascoes with their resulting public outcry coalesced into both a class action suit against Electronic Arts (EA) and ongoing looming investigations by the Federal Trade Commission (FTC) and other government authorities into whether the DRM used violates consumer protection or other statutes. The industry could find itself with continuing calls for action on liability and/or regulation imposed by outsiders. One user, Dan Zuccarelli, comments on a Wired blog: *"Another game I was excited about but will not buy because of SecuRom. I hope EA wise's up at some point and realizes that customers don't like being treated like criminals."*

Iainl comment on guardian.co.uk blog: *"PC games really need to sort this out. It's reached the point where I won't install games on my PC, just in case the insane paranoia of the copy protection breaks things for all the more serious stuff it gets used for."*

How should the PC game industry get out of this mess and get on a path to better relationships with its customers?

Many writers have suggested how the industry should deal with this problem, including Brad Wardell's suggestion of a [Gamer's Bill of Rights](), TalkJack's [the PC Gamers DRM Charter]() review of 16 things DRM should or should not do and Tweakguide's [PC Game Piracy Examined](). While all three of these contributions are valuable and have begun to push the industry in the right direction, they were published prior to recent events. Now that legal liabilities and regulatory risks are added to the customer issues, clearly a more near term and comprehensive solution is necessary.

My suggestions are focused on PC games and as such also fully applicable to PC applications. I don't think that DRM for other products, such as music or video, will find a practical solution in the near future, due both to the analog hole (you can record off the speakers or the TV) and the ease of bypassing or removal of the protection schemes. Games and other software are more protectable, because protection can be inserted into the application which you cannot readily do with other forms of digital content.

Before we get ahead of ourselves, three things must be established: First, the PC Game industry must have DRM – otherwise the developers and publishers might as well give their work away. Second, to have meaningful DRM, publishers must gain user acceptance of online activation, repeated verification for some time period and limited offline runs. Third, the industry MUST take these issues seriously. Aside from making users irate, many of the features of current DRM solutions may well violate basic consumer rights laws. The fact that the user was given NO information about how EA's implementation of DRM in Spore works and what it does to his or her PC will be a challenge to defend. Full disclosure to the buyer is standard practice in most industries – how many calories in that Pepsi? A layman's read of both the California and the UK statutes would find such DRM not in concert with the intention of the legislators.

The FTC has decided to hold a [DRM town hall meeting]() on March 25, 2009, with emphasis on games. Regulation is one thing, but a potential user revolt is a far more important challenge. Remember StarForce and the Ubisoft law suit? An informal poll in the UK showed that 1/3 of the respondents would NOT buy Sims 3 if it was protected by SecuROM.

So, how do you implement a DRM solution so that a) end users accept it, b) crackers are frustrated by how much work it takes to remove, and c) at the same time is friendly to publishers? Isn't it fairly obvious?

1. Pre-Purchase
    a. The game should on first release be available in all major markets in the world, not just North America and Western Europe. By doing this, punlishers avoid those eager users, who cannot wait for the game being available for purchase in their markets, obtaining a cracked version to be able to play right

away. 'Tweakguides' writes: *"Releasing games earlier in some regions is probably the single biggest incentive for people to pirate a game and contribute to day-zero piracy."*

b. The game protection method need to be the same globally and added on all beta, press and gold master versions. 'Tweakguides': *"Releasing games with different protection methods in different regions also allows pirates to simply attack the weakest link to achieve a working crack. So release all games globally at approximately the same time, and unify the protection method if you're serious about slowing down day-zero piracy."*

c. The users should be able to tell that the game will work on their PCs. Thus, they should be able to download the entire game for a few test runs, before going to the store.

d. The user should also be allowed to 'test drive' the game to see if the user likes it. Same procedure as above. 'ScytheNoire' comments on a TechDirt article: *"Free trials are key. World of Warcraft got so big because it gave away free trials, or sold the disc's very cheap in stores at the register, and let's people try the game. Two weeks of playing and they are either hooked, going to keep playing, and pay monthly, or they don't buy it. Nothing lost by the company, only a win-win scenario."*

2. At Purchase

a. The user should be fully informed about all aspects of any DRM used. It should be clearly printed on the game box and on game websites which DRM and method is used and both versions shall have a website given, where complete descriptions can be found. 'Talkjack' writes in his PC Gamers' DRM Charter: *"You should print clearly on the packaging the name and logo of the DRM system you licensed and bundled with the game. This will allow customers to make an informed choice when they purchase your product, and not have a nasty surprise when they get home and find you have imposed restrictions upon them which were not clearly available at the time of sale."*

b. The manual in the game should contain a complete description on how the DRM and the license works – what the user can and cannot do. It should also specify what to do, if this is not acceptable. The user should be able to go back to the store for a refund or have other avenues for resolving the situation with the publisher.

c. A link should be published to a page detailing the hardware with which the protection is incompatible (e.g. DRM solution & known DVD drive incompatibilities). 'Tweakguides' writes: *"Aside from deflating claims of a cover-up, this also allows customers to make a fully informed purchase and lowers support costs."*

3. At First Installation

a. The DRM should not install any hidden, non-standard drivers. 'Killerbee' comments on guardian.co.uk blog: *"I do object on principle to rootkits and DRM that installs stuff on my PC without my knowledge or permission."*

b. The DRM should not modify the registry. 'Talkjack' writes: *"It is their PC not yours, and they should be able to manually empty folders and tidy their*

Windows registry whenever they want, without needed special software or hacker-style techniques to do so."

4. At First Activation
   a. Very importantly, the industry must educate users that adequate protection against piracy in combination with user-friendliness is only possible with online activation and revalidation. Without these aspects of the protection, it will be so easily cracked that the publisher might as well 'go naked'.
   b. Activation should be smooth, quick and easy. It should not require any real personal information.
   c. The product keys used should be as user friendly as possible. If purchased via digital sales, the key should be delivered with the download and transparent to the end user. And if purchased via retail, the key should be printed on the box or in the manual and be very easy to enter at activation.
   d. At activation, the user should be given additional information about the DRM, how it works and what the user can or can not do.
   e. The capacity of activation servers should be plentiful, so no eager users have to wait to play the game they just bought.
   f. A tech support phone line and/or email for DRM-related issues should be available.

5. At Subsequent Installations
   a. The game should be installable on an unlimited number of PCs. The right to play should follow the user from one machine to the next. Thus, the license should be tied to the user, not the PC, the CD/DVD or the dongle. Michael Santo, Editor of Real Tech News, explains in his post Spore's DRM Panned on Amazon.com: *"They don't want to have to call to ask for permission to do additional installs (either because they rebuilt their systems, or because they have more than three computers they use)."* 'Killerbee' comment on a guardian.co.uk blog: *"I should be free to uninstall and reinstall something I bought as many times as I like."*
   b. The way some DRM solutions work, cheating on the license is encouraged. If the DRM allows 5 active installs, a group of 5 friends can jointly buy one copy of the game and each play. Yes, they may not be able to access online content, but for mostly single player games, who cares?

6. At Subsequent Runs
   a. If validation is occurring, it should be invisible to the user, thus, not increasing startup time or otherwise inconvenience the end user. 'Sheep2' comment in a guardian.co.uk blog: *"Any copy protection measures should be invisible to the player as far as possible."*
   b. Any connection between the game and a server should not open up the possibility for hackers to get access to the end user's PC.
   c. The DRM should only run if the game is running.
   d. The DRM should not affect the performance of the game
   e. Offline runs should be allowed – but need to be limited, since they make cracking easier. This is the other important point to educate users about.
   f. The CD/DVD should not be needed to run the game

g. The local portion of the DRM should not try to determine that the copy on the local PC is illegal.

7. At Later Runs
   a. Since the local installation is occasionally communicating with the validation server, updates, bug fixes, et al, should be delivered automatically.
   b. When the economic life of the game is over, the publisher should remove the copy protection altogether. This should be done with a simple patch. This protects the user from issues related to the publisher ceasing to exist or to support the game or the DRM company shutting down the server. 'Talkjack writes: *"Instill confidence in your paying customers by removing your DRM when it is no longer necessary."*
   c. The publisher might do the above in stages, where the license restrictions are gradually relaxed and the protection finally removed.

8. At Deinstall
   a. All remnants of the DRM should be uninstalled automatically when user deinstalls the game.

9. Other Users
   a. Any user should be able to lend the game to a friend – this is, after all, in the interest of the publisher. When the friend installs, the game should become a trial version, which, after some free days or runs, expires, but can easily be turned into a perpetual paid license.

The same argument applies to resale. A user should be able to, when he has finished playing his game, resell it. I find it hard to argue that resale can be prohibited. Why not make it easy? Is the purchaser of a resale game really going to buy the original product at 3x the resale price? The publisher is getting a new customer who can try an older title for less and who later may buy a new title from the publisher. 'Zorro' comments in a TechDirt article: *If I buy something, anything, I expect to be able to put it on eBay when I'm finished with it.* "

What I've stated above should be obvious – just think about other things that we all buy regularly. My suggestions are also, as far as I know, technically feasible.

Can't we all just try to get along?

Publishers – having irritated customers cannot be good for the bottom line. Being sued for ignoring obvious consumer rights is also not profitable. Protect your franchises and look thoroughly into all issues involved.

End users – yes, DRM as you know it punishes you. But by accepting temporary 'phone home' and limits on offline runs, you will get all the other benefits you are asking for. Publishers have no meaningful way of combating piracy without these two features.

My hope is that our experiences from 2008 will provide the impetus for a completely new relationship between publishers and gamers. They both stand to gain from this:

Publishers can implement more meaningful protection against piracy. Publishers can get more feedback on games, and could even set up panels of gamers who provide data on how they play. Gamers can win all the conveniences of ownership that they should have.

It's time for all of us to join forces and create a better and more productive relationship between gamers and game producers.
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