

1. It's good that the FTC is interested in DRM. It should be. DRM is a technology which, when added to a given product, reduces the value of that product for consumers. If consumers buy a DRM-infected product without a full understanding of this, those consumers are being cheated.

When vendors lie about the purpose, nature and consequences of DRM, they are engaging in deceptive trade practices -- practices which the FTC has a clear mandate to stop.

2. DRM-infected products should be clearly labeled as such. For physical products, cigarette-package warnings might be a good model. There should be standards for size, placement, colors, font, and acceptable wording. Each unit of sale should bear one of a selection of statements warning that the product is DRM-infected and explaining one of the negative-to-the-consumer consequences.

Specific examples:

"DRM WARNING: Stops you from exercising your legal right to first sale."

"DRM WARNING: May prevent or complicate legitimate format-shifting."

"DRM WARNING: May interfere with using brief quotations for scholarship or criticism."

"DRM WARNING: This product is designed to deliberately fail to work under some circumstances, based on the unsupported assumption that you are a thief."

"DRM WARNING: This product may not interoperate with your playback equipment. Should this happen, you may neither attempt to fix it nor return this product for a refund."

For products without physical packaging, similar requirements could be made for an on-screen warning (similar wording as above, clearly legible and on a screen by itself) prior to purchase.

3. "DRM" (meaning Digital Rights Management) is, in itself, a misleading label. To claim that the measures so labeled "manage" the digital rights of consumers is disingenuous at best. A more honest label -- one that might be established by legislative fiat -- is "DRD": Digital Rights Denial.
4. The claim that DRM is an anti-piracy measure is a flat lie, and companies that tell that lie to consumers should be prosecuted for it.

DRM is not now, nor has it ever been, an obstacle to piracy or copyright infringement. Indeed, it is a strong inducement to piracy: A (DRM-free) pirated version of a work is more valuable to the consumer than a legitimately-purchased, DRM-infected version.
5. Consumers who break DRM in order to achieve compatibility with their playback equipment or exercise legal rights such as first sale or format shifting should enjoy strong legal protection. (The DMCA currently criminalizes breaking DRM.)

Those who create or distribute DRM-breaking tools should enjoy the same

protections, that even consumers who are not technologically sophisticated might enjoy the same rights mentioned above.

6. There should be standards for labelling and truthfulness in the packaging of DRM-free products. Consumers who wish to choose DRM-free options when they purchase should be able to do so without guessing or arduous investigation.