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**Submission to the  
Inquiry into Technological Protection Measures**

1. This submission relates firstly to item f. on the terms of reference "*activities conducted in relation to regional coding of digital technologies.*"
  - 1.1 If I *rent* or *lease* an object, then, eventually, I have to give it back. Usually, I need to give it back in similar condition to when I rented it. If I *buy* an object on the other hand, then I own it and have an inviolable right to do pretty much as I please with it. This is what "property rights" means. If a 10 year old didn't understand this, you'd need to get them some remedial language coaching.
  - 1.2 Regional coding of digital technologies coupled with laws preventing circumvention of TPM violates the basic principle outlined in the previous paragraph. If I happen to buy a DVD/CD in one country but am prevented by TPM and legislation from playing it on my return home then this is a fundamental breach of my common law ownership rights.
2. Secondly, this submission discusses the definition of *authority* in Article 17.4.7(i). This clause clearly implies that TPM circumvention is legal when authorised. The issue of who can provide authorisation is not specified. I would suggest that the property owner is the only person entitled to give such authorisation.
  - 2.1 When a person wants to do something with another's property it is required that the person ask the owner for permission. A property owner can authorise another with regard to actions with a piece of property.
  - 2.2 Hence I, as owner of the DVD/CD, are free to make as many copies as I like. But if I am not the owner of the copyright, then I should not be entitled to give the copies away, or more particularly, to sell them.
  - 2.3 There is a clear conflict, in this case, between the two types of rights, but my interpretation of how the law *should* work fits with the fundamental ideas of both property rights and copyrights. Clearly the making of 2, or even 2000, copies of some copyright object doesn't interfere with the copyright owner's market or ability to derive a living from their work, unless I sell or give the copied objects away.
  - 2.4 If I have legally purchased a DVD/CD and a computer, then any attempt to circumvent what I can do with them — particularly in a stand-alone state, where they can not effect the property of anyone else — is a serious violation of the basic common law principles of ownership and property. Furthermore, since I own both the computer and the DVD/CD, I can authorise myself to use it for any purpose.
  - 2.5 Even police serving a warrant are subject to the laws of trespass *Plenty v Dillon (1991) 171 CLR 635 F.C. 91/004*. The legal conditions under which another person can trespass on or interfere with your property are legally very restricted. The anti-circumvention measures are an unnecessary, unwarranted, and serious infringement on our basic property rights.

Yours faithfully,

Geoff Russell

P.S. The author is a computer programmer with a transit scheduling software company, *Austrics*, whose software was used to schedule the transport at the Sydney Olympics and is used in many countries around the world.