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From: Eric Lindsay [mailto:webmaster@ericlindsay.com]

Sent: Tuesday, 4 October 2005 3:07 PM

To: Committee, LACA (REPS)

Subject: Inquiry into technological protection measures (TPM) exceptions

Inquiry into technological protection measures (TPM) exceptions

I note pressure from the USA towards the establishment in Australia of a DMCA style legal situation with regard to individuals defeating TPM on copyright material, where this is done so the individual can use media content they have purchased.

This arises at present when an Australian while overseas purchases a DVD and attempts to use it in a DVD player set to Zone 4 when they return to Australia. Naturally anyone in that situation will either defeat or remove Macrovision copy protection so they can avoid the Zone 4 restriction. After being caught by Zone restrictions a few times, most people in Australia refuse to buy DVD players with zone restrictions. Luckily many Chinese manufactured DVD players can easily have zone restrictions removed.

I believe this is a reasonable area for TPM exceptions for personal use.

I gather the present copyright law in Australia does not allow transfer of copyright material to a different format. For example, LP record to cassette, CD to MP3 or similar player. If so, the millions of people in Australia with an MP3 player or an iPod must all be listening to Bible lessons or material recorded by their own band. In the case of the iPod, there basically is no legal source of media for it at all, since iTunes Music Store does not exist in Australia and the available legal download sources are not compatible with the largest selling music player. Adding a TPM law to an unenforceable and widely ignored copyright law seems unlikely to change the situation, and will almost certainly further annoy users. This also seems a reasonable area for TPM exceptions for personal use.

The failure of Digital TV in Australia, even in SD (let us not pretend HDTV actually exists in any meaningful numbers), with analogue sets still outselling digital 10 to 1, is almost certainly not entirely a matter of public suspicion about TPM as incorporated in interfaces like HDMI. However most interested people are well aware that modern computers include three fast, flawless and unprotected methods of transferring digital material, including any video media. DVI, used by upmarket computer monitors. IEEE1394 (also known as Firewire), used by video cameras (including HD) to transfer video to computer. Ethernet, used as a network connection.

When new TVs, set top boxes, and so on are instead offered with HDMI (physically identical to DVI except for an audio feed), it is obviously just another attempt to lock down content. If brand name manufacturers do insist on restricting their products to HDMI, the first Chinese manufacturer to offer a full line of video products with IEEE1394 will take the entire consumer home cinema market. Legal or not. However until ways to bypass HDMI and the associated HDCP protection go on sale, the only advice for potential purchasers

of HDTV is not to bother to buy while TPM exists.

In essence, digital media supplies a unique pattern of binary digits as the copyrighted goods. The copyright holders wish to prevent the purchaser from ever moving that pattern to a different device. The copyright user wishes to use the purchased digital pattern on any future device. I see no way to reconcile these two opposite views. Under your terms of reference, I suspect no compromise is possible, and we will end up with a US style DMCA law. However a lot of Australians will be ignoring laws like this.

The current efforts of media cartels to bully the US public with DMCA (15,000 legal cases against individuals) is unacceptable to me. Technology, in the form of the Edison phonogram, started the rise of media empires. Now a better technology is about to destroy those empires. The Australian government should not be trying to pick winners. It would be like banning people from driving to preserve the profits of buggy whip manufacturers.

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