

# Models of Consumer Protection in DRM

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# Parallel Debates

- DRM: What does consumer protection require?
- Copyright: Who are users and what do they require?

# Parallel Debates

- DRM: What does consumer protection require?
  - Anticircumvention regimes highly rigid
  - “Consumer protection” potentially liberatory
- Copyright: Who are users and what do they require?
  - “Consumer” too narrow/passive

# Five Models of Consumer Protection in DRM

- Allocative
- Civil Libertarian
- Proceduralist
- Constitutive
- Plug-and-Play

# Allocative Protection

- Baseline = levies
- Relative to this baseline, DRM itself protects consumers
  - Fairer pricing
  - Lowered risk of corruption/capture
- Anticircumvention laws protect pricing
- Agenda:
  - Repeal levies
  - Enact/enforce anticircumvention laws

# Civil Libertarian Protection

- Baseline = world without DRM
- Relative to this baseline, consumer protection requires freedom to tinker
- Anticircumvention laws frustrate consumer protection
- Agenda:
  - Repeal/weaken anticircumvention laws

# Proceduralist Protection

- Baseline = a question for copyright policymakers
- Market for DRM requires accurate information
- Anticircumvention laws necessitate heightened disclosure
- Agenda:
  - Enact/enforce disclosure requirements

# Similar Baselines, After All?

	Pricing	Functionality	Information
Allocative	Market	Market	Market
Civil Libertarian	Market	Market	Hackers
Proceduralist	Market	Market	Regulated



# Constitutive Protection

- Baseline = user ability to interact with digital content
- Relative to this baseline, “consumer” protection obligations are substantive
- Anticircumvention laws are problematic, but not the principal impediment
- Agenda
  - Open up standards processes
  - Establish user-protective defaults and institutions
  - Modify anticircumvention laws

# Conceptual Baselines, Revisited

	Pricing	Functionality	Information
Allocative	Market	Market	Market
Civil Libertarian	Market	Market	Hackers
Proceduralist	Market	Market	Regulated
Constitutive	Market	Code Defaults; Institutions; Anticirc. Exceptions	Open Standards/ Design Processes

# Plug-and-Play Protection

- Baseline = consumer expectations re portability across devices and platforms
- Relative to this baseline, DRM markets may require supervision
- Anticircumvention laws generally beneficial if portability exists
- Agenda:
  - Enact/enforce interoperability mandates
  - Or, coordinate interoperability agreements

# Conceptual Baselines, Again

	Pricing	Functionality	Information
Constitutive	Market	Code Defaults; Institutions; Anticirc. Exceptions	Open Standards/ Design Processes
Plug and Play	Market	Interoperability Mandate?	Market

# DRM in Sociotechnical Perspective

“Technologies” are shaped by interactions between social systems and technical systems:

- Technical affordances and limits
- Political and economic interests
- Organizing narratives

# Organizing Narratives and Consumer Protection in DRM

- “Consumers” want clarity and convenience
- “Regulation” stifles “innovation”
  - Functionality
  - Pricing
- Threat of rampant “piracy” requires narrow range of motion
- Hacker threat requires closed design process and secret standards