DRM as a matter of iConsumer law

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Why consumer law is the right place

Consumer law regulates the relationship between consumers and enterprises.
Rationales of consumer law

- Fair deal/fair price
- Help to self help
- Correcting asymmetries
- Competition

- Market integration
- Autonomy
- Justice
- Basic consumer rights
- Public policy
The 2 approaches of consumer law

**Information**
- Help to self-help
- Minimum intervention
- Providing information needed to make informed choices

**Intervention**
- Help the consumer
- More active role (welfare) state
- Intervention with substance contracts, marketing practices, etc.
The iConsumer in the Information model

- Obligations to inform consumers about essential characteristics of a product or service, e.g.:
  - Ability to play on different devices
  - Installation of unwanted software
  - Hidden monitoring
  - Ability to make private copies?

- Prohibitions on unfair commercial practices, non-conformity, product liability
The iConsumer in the intervention model

• Rules that govern marketing
  – Misleading advertising
  – Unfair and aggressive marketing practices

• Rules that govern contracting
  – Unfair contract terms

• Rules that govern product quality
  – Non-conformity
  – Product liability
DRM-protected CDs as defective product

Main rule: consumer goods should “show the quality and performance which are normal in goods of the same type and which the consumer can reasonably expect”:

- Compatibility with end-user equipment
- Possibility of private copying?

• Remedies: repair, replacement, price reduction
What (not) to expect from iConsumer law

• Consumer law cannot:
  – Create choices
  – Set standards for fair DRM use

• Consumer law can:
  – Promote fairness in relation consumer-DRM user
  – Ensure product quality
  – Assist the iConsumer in making choices: vote with her purse