

The Future Digital Economy

**Digital Content Creation,  
Distribution and Access**

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*Perspectives on opportunities  
and challenges*

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# Protecting Access to Knowledge (A2K) in the Future Digital Economy

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# Pro-actively regulate TPM/DRM before extending legal protections.

## **TPM/DRM systems can lock-up content and uses of content, even when:**

- \* The content is not protected by copyright
- \* The use is allowed under copyright
- \* The use would be normally be permitted by the actual copyright owner, or in cases where the copyright owner cannot be found (orphan works).

## **New Paradigm for Regulation of DRM/TPM system**

- \* Require TPM/DRM vendor to seek approval before the scheme is protected.
- \* Place burden on TPM/DRM vendor to demonstrate system does not unduly undermine legitimate uses, or personal privacy.
- \* The protection of TPM/DRM systems does not necessarily have to track copyright protection, in areas such as the term or protected subject matter.
- \* Approval of TPM/DRM systems should be limited to cases where the TPM/DRM system is the least restrictive way protect legitimate interests of copyright owners, and does not unduly undermine consumer rights and interests.
- \* Require periodic reviews of TPM/DRM before renewing legal protections

# The WIPO Broadcast/Webcast Treaty is the wrong paradigm for access to knowledge.

- Treaty would expand “Rome” convention type protections of broadcasters, and extend new regime to the Internet.
- Protections based upon “investment” in distributing works, rather in creativity.
- Ill defined “webcasting” activities would be protected. (Data, text, audio visual content, web pages, podcasting, search engines, mobile phones, etc?)
- The EU and the US pushing for “technology neutral” export of Rome related rights approach to the Internet.
- Introduces new lawyer of property rights (*and required permissions*) for information disseminated on Internet.
- Harmful regime for broadcast television and radio, but a much worse system for the Internet.
- Next WIPO SCCR meeting on treaty is May 1-5, in Geneva.

# Open Document Formats are Important

The monopoly in word processing, presentation graphics and spreadsheets software is harmful, leading to high prices and less innovation.

At the core, the monopoly is about standards.

Competition authorities have not meaningfully controlled monopoly power in this field.

The key strategic opportunity to promote competition is in procurement policy, and in particular, in requiring open, standards compliant file formats for data.

*(Note that open HTML standards have lead to an explosion of innovation and competition in tools for authoring web pages).*

The most important test of open standards is the debate over support for the the OASIS Open Document Format for Office Applications, which covers applications such as word processors, spreadsheets and charts.

# **Create global frameworks to support public goods**

- **WIPO Treaty on Access to Knowledge**
  - Referenced in the WIPO Development Agenda
  - Two 2005 consultations on the possible elements of such a treaty
- **WTO General Agreement on Public Goods**
  - Proposal modeled after the WTO GATS
  - Countries would make offers to supply public goods