

# Behind Apple's decision to drop anti-copying measures in iTunes

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19 January 2009

Apple's decision to drop the anti-copying protection known as Digital Rights Management (DRM) has received a mixed response from consumers and music fans across the world.

The removal of DRM, which limits the devices authorized to play songs purchased on iTunes, is a welcome move and may well attract new customers to iTunes who previously shied away because of these limitations. But for existing iTunes users, things don't look so good.

Apple is offering customers the possibility to upgrade their music collection to the new 256k DRM-free downloads at a cost of 30 cents per audio track, or 60 cents per video track. The upgrade is offered only as an all or nothing plan. It is not possible to upgrade individual tracks, only your entire library. The full cost of an upgrade will not be apparent until the entire iTunes library has been converted over to the new format. Apple says that about 8 million of its 10 million songs are now converted.

DRM allowed purchases to "be played on up to 5 computers (Mac or PC) and synced to any iPods you own. Any iTunes playlists containing these purchases can also be burned to a CD up to 7 times for use in the same manner as any purchased CD," according to Apple's support site. The DRM-free downloads will be playable on any device capable of playing music in AAC format by default. The new 256k format offered by Apple will allow customers to convert music to MP3 format without the same loss of quality that would result with 128k downloads.

The announcement marks an extension of Apple's iTunes Plus program announced in April 2007. At that time Apple was said to have around 2 million of its 10 million-song catalog available in DRM-free format at that time. The songs were made available at a premium, costing \$1.29 versus the 99 cents for DRM downloads. That announcement followed EMI's decision to make available DRM-free downloads in response to "consumer demand for high fidelity digital music for use on home music systems, mobile phones and digital music players," according to an EMI press release at

the time.

## Apple's embrace of DRM

In an open letter entitled "Thoughts on Music," published February 6, 2007, Apple CEO Steve Jobs provided his take on DRM, as a necessary evil forced upon Apple by the recording industry giants. "Since Apple does not own or control any music itself, it must license the rights to distribute music from others, primarily the 'big four' music companies: Universal, Sony BMG, Warner and EMI. These four companies control the distribution of 70 percent of the world's music," Jobs said.

The iTunes software was launched at the annual Macworld Expo on January 9, 2001, just two months prior to the March 5, 2001, injunction granted to the Recording Industry Association of America (RIAA), which ordered the free music-sharing network Napster to stop trading copyrighted material over its network. (See "Napster seeks to block access to copyrighted music") The first iPod portable music player was released in October 2001. With its release, the importance of the iTunes digital jukebox software became immediately apparent.

Two years later, Apple announced the launch of its iTunes music store with a library of 200,000 songs. In its initial version, Apple offered a subscription-based service similar to that of Rhapsody from Real Networks and other competitors. But by April 2003, it had moved to the pay-per-song business model that dominates the market today.

In his open letter, Jobs states, "Apple was able to negotiate landmark usage rights at the time, which include allowing users to play their DRM protected music on up to 5 computers and on an unlimited number of iPods. Obtaining such rights from the music companies was unprecedented at the time, and even today is unmatched by most other digital music services. However, a key provision of our agreements

with the music companies is that if our DRM system is compromised and their music becomes playable on unauthorized devices, we have only a small number of weeks to fix the problem or they can withdraw their entire music catalog from our iTunes store.”

The DRM assurances no doubt played a big part in Apple’s ability to gain distribution rights from the major labels. Just as significant, however, was the role of DRM in establishing a dominant market position for Apple products.

The initial popularity of iTunes as a legal alternative to Napster created a ready-made market for the iPod music player. Through DRM, Apple was able to ensure that the majority of iTunes users were also iPod users.

Answering calls to “open” its DRM software so that music purchased from iTunes could be played on other devices, Jobs writes in his open letter, “iPod users can and do acquire their music from many sources, including CDs they own. Music on CDs can be easily imported into the freely-downloadable iTunes jukebox software which runs on both Macs and Windows PCs, and is automatically encoded into the open AAC or MP3 formats without any DRM. This music can be played on iPods or any other music players that play these open formats.” Jobs continues, “The rub comes from the music Apple sells on its iTunes Store.”

The “rub,” as Jobs calls it, has proved very profitable for Apple. Since the DRM system depends upon allowing only authorized devices to play music titles, this enabled Apple to lock iTunes customers into their iPod product line. Jobs attempted to address this in his letter, stating that, “since 97 percent of the music on the average iPod was not purchased from the iTunes stores, iPod users are clearly not locked into the iTunes store to acquire their music.” But this does not address the reverse problem—iTunes customers are locked into using the iPod.

## Why DRM had to go

In his letter, Jobs asserted Apple’s desire to sell DRM-free music in the following terms: “Imagine a world where every online store sells DRM-free music encoded in open licensable formats. In such a world, any player can play music purchased from any store, and any store can sell music which is playable on all players. This is clearly the best alternative for consumers and Apple would embrace it in a heartbeat.”

Jobs then asks, “Why would the big four music companies agree to let Apple and others distribute their music without using DRM systems to protect it? The simplest answer is

because DRMs haven’t worked, and may never work, to halt music piracy. Though the big four music companies require that all their music sold online be protected with DRMs, these same music companies continue to sell billions of CDs a year which contain completely unprotected music.”

The failure of DRM to prevent online sharing of music is abundantly apparent. A visit to <http://www.download.com> shows the number-one download for Mac to be the popular file-sharing software LimeWire version 5 Beta, with LimeWire (Classic) being at number four. On a Windows PC, LimeWire occupies the number-two spot, with the number-six most popular download being FrostWire, a LimeWire PRO Gnutella/Bittorrent client whose stated aim is “to keep and maintain the freedoms that LimeWire LLC maybe forced to withdraw. Share any type of file on Gnutella and the Bittorrent network.”

In addition to the continued growth of online file sharing, Apple confronted new competitors such as Amazon that have signed their own deals with some of the major labels and are already selling DRM-free songs.

There is a basic conflict of interest between the development of the Internet as a means of mass communication and distribution and the capitalist system based upon private property. Contrary to the claims that DRM is meant to protect copyrights and that copyrights themselves are there to protect the artist, DRM as applied to the music industry was a mechanism to protect the interests of the big-four music giants at the expense of both fans and artists alike. If these same music giants and their partners such as Apple are today moving away from DRM, it is simply because it has proved ineffective in protecting their interests.



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