

2017-04-12

## **Open letter from Just Net Coalition to Sir Tim Berners-Lee seeking his urgent intervention to stop acceptance of Encrypted Media Extensions as a W3C standard**

*The Just Net Coalition<sup>1</sup> (JNC) comprises several dozen organisations and individuals from different regions globally concerned with Internet governance, human rights and social justice, and the relationship between them.*

Dear Sir Tim,

The Just Net Coalition strongly objects to the recommendation of Encrypted Media Extensions (EME) by the World Wide Consortium (W3C) because of the danger it poses to the interests of the billions of people who already as a direct consequence of W3C's continued acquiescence have had dangerous and opaque DRM code installed on their device without their consent or even knowledge. DRM (Digital Rights Management) is a technical means to remotely control what a user can or cannot do on her own device. The official recommendation of EME by W3C, in default of substantial considerations of user rights and control by you, the Director of the W3C, will spread dangerous DRM to even more people across the globe, including developing countries in the Global South where DRM will cause tremendous harm. Although this seems to be an obscure issue of standardization, the spread of DRM represents a clear challenge to social justice.

In this regard we would like to fully support the positions expressed in the letter written to you by Frank La Rue, Assistant Director-General Communication and Information at UNESCO.<sup>2</sup> We appeal to you to take into consideration these views expressed by the UN agency responsible for promoting free expression, education, science and culture.

People, in particular in the Global South, are struggling for access to information and the W3C, with its global mandate, has the responsibility to enable access to information for all rather than for helping build financial and technical walls to this information on behalf of a few large and wealthy private sector content providers. Simply put, DRM code in a browser hands control over a user's screen to this cabal of content providers, technically enforcing their ability to extract payment, ignoring any sovereign rights of the user or of the nation where they reside.

The Web is larger than North America and Europe, and certainly larger than the corporations represented by the HTML Media Extensions Working Group. Currently, DRM functions only to preserve and enhance the profit margins of a few powerful mostly USA-based, corporations including Hollywood content syndicates such as the Motion Picture Association of America and the newer digital overlords of content such as Google's YouTube and Netflix, while simultaneously preventing the fair use and free sharing of information by ordinary people. As those of us aligning

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1 <http://justnetcoalition.org>

2 [https://en.unesco.org/sites/default/files/eme\\_letter\\_frank\\_la\\_rue.pdf](https://en.unesco.org/sites/default/files/eme_letter_frank_la_rue.pdf)

with the Just Net Coalition's Delhi Declaration<sup>3</sup>

have stated, “Many technical, and thus purportedly 'neutral', decisions have in reality led to social injustice as technology architectures, often developed to promote vested interests, increasingly determine social, economic, cultural and political relationships and processes.”

The US DMCA<sup>4</sup> and related laws around DRM force people to pay for content even when access is their legal right due to “fair use” and other limitations on copyright, and so DRM is incompatible with fundamental and widely shared principles of democratic and individual sovereignty. The work of the W3C in this area on EME aggravates the situation even more than the pre-EME situation of third-party plug-ins, where, by contrast people throughout the world at least had the chance to reject DRM by opting out of installing a plug-in.

In its response<sup>5</sup> to the UNESCO statement cited above, the W3C states: “The alternative to EME allowing interaction with copyrighted content in Web browser plugins is abandoning the Web. Without in-browser decryption ability, content providers would use their own native application, which will have much more leeway to spy on the user, and possibly infect their machine.” In other words, W3C appears to be concerned that without EME-DRM on the web, many movies and traditional TV style commercial content may get taken off the open web, and be provided through apps.

In our view, we should not be afraid of that. Let copyright owners take their content where they wish to take it. The Internet and the web were never originally intended to broadcast copyright material. Even if that material “goes away”, we will have saved the open Internet/web for what it was originally meant for: peer-to-peer (p2p) sharing and communication. The open Internet/web also allows content businesses to use it, as long as their interests do not triumph over those of the common person. Content businesses can use the open Internet/web by employing business models that work with the open web. If not, then they can go ahead and develop private channels to the consumers – that is their right.

But we should not be intimidated by their threats. We should not change the Internet/web for them. We know that the big content providers want to use the web and not native apps, because the latter leaves them at a disadvantage. Such a disadvantage is a natural and just consequence of their attempt to control our means of communication, and so let them suffer it. P2p and ethical commercial content will continue to use the web, and we need to provide such content the advantage of the commons of the web.

Let traditional movie/TV style content go to native apps if that is what their owners want. That does not do any substantial damage to the open Internet/web. On the other hand, by keeping the web open, we will be ensuring a very useful advantage to p2p and ethical commercial content. That, in our view, is the duty of the custodians of our commons, like the W3C.

And do not heed the threats from commercial interests. They are not aligned with what people want.

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3 <http://justnetcoalition.org/delhi-declaration>

4 Digital Millennium Copyright Act

5 <https://www.w3.org/blog/news/archives/6225>

It is the power of the people, voting with their feet, which made the Internet/web what it is today, and it is this power that will sustain it. It will not be sustained by succumbing to the threats of big content owners or by making deals with them that are only in their favour. Big content owners have always been against the open and egalitarian character of this new communication infrastructure, and have consistently resisted most forms of technical innovation. We did not allow them to win back when video recorders were invented, nor ever since, including during the early days of the Internet.

Let us not let them win now. We need to maintain our ethical stance. A global standards body must weigh in on the side of the common people against the powerful. The web must remain what it was originally meant to be – an egalitarian digital space. If it tries to dance to corporate tunes, it will lose its soul.

In this instance, if W3C were to adopt EME as a Recommendation without demanding substantial changes to increase user control and security, everyone on the planet – including in countries where democratic parliaments have intentionally refused to adopt certain of the atrocious rules propagated by the DMCA – will effectively be subject to web browser-based DRM whose only purpose is to enforce without prior consent (either individual or on a national basis) the DMCA, a creature of US corporate and national self-interest based on financial greed. Pre-emptive proprietary locks on digital content are, it should be evident, the moral equivalent of the uncontrolled selling of user data by corporations, as both are acting clearly in opposition to the public interest and the basis of social well-being. If you can take a stand for user privacy, over which you have no control, why can you not take a stand for user control over content, where you and W3C can exercise actual control?<sup>6</sup>

Surely, it is not acceptable to impose, de facto, US law on the entire world through the agency of an ostensibly neutral standards-making organization purporting to act in the broad global public interest. It is not surprising that such actions have the effect of bringing these standards making bodies into disrepute and suggest to many, particularly in developing countries, that any such organization is willy nilly acting as an arm of developed countries', and overwhelmingly the US, economic interest and domination.

By standardizing EME, the W3C would appear to be enabling a new form of digital colonialism that perpetuates structural inequality by locking away content from those who have the most need for it, while having the least means for financial access. It thus has the effect, amongst others, of preventing innovation and stifling content sharing on the Web by making difficult effective digital contributions by and from lesser resourced individuals, groups and regions of the world. For the least resourced and under-privileged, access to information is an important lifeline to raise themselves up so as to realize their own full potential. Why should the people of the world be forced through technological means to pay for content to which they would in many, if not in most, instances otherwise have unrestricted or low cost access negotiated on their behalf by national governments, educational institutions and others?

The W3C standardizing of EME will spread DRM and so lead to more insecurity for users, not less, as “sandboxing” — an ameliorative technique to limit the execution of DRM code to a part of

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<sup>6</sup> <https://www.theguardian.com/technology/2017/apr/04/tim-berners-lee-online-privacy-interview-turing-award>

the browser — only attempts to limit the harm caused by giving a third party corporation control of your computer's video, but it does not eliminate it. “Sandboxing” is incompletely implemented by open source browsers like Mozilla and is more easily hacked than Google's browser today, and will likely continue to be easily hacked in the future.<sup>7</sup> Google's DRM has, indeed, already been hacked by researchers.<sup>8</sup> A “sandbox” serves as no magical panacea for the security and privacy harms inflicted by EME on all users. There is no reason major corporations or intelligence agencies cannot use opaque DRM code as spyware to invade user privacy and to hack the computers of ordinary users.

The Web as an open space for the free sharing of information —which was as designed by you as the original intent of the web— will instead now become a platform for pay-for-play access to content. The Electronic Freedom Foundation (EFF) covenant<sup>9</sup> offered a way to at least ameliorate this harm, but it was prematurely rejected by the W3C, leading to the current state of affairs where the W3C is asking security and privacy researchers to commit to so-called “responsible disclosure” under US law, ignoring both their own national law and international law, and common sense in terms of security in order to favor the business model of corporations for whom security disclosures may harm their profit margins. Worse, DRM also has a chilling connection to the future of surveillance and censorship. As Frank La Rue correctly noted, widespread adoption of DRM will move Internet censorship from the network to the browser, leading we would expect to this new feature from the W3C being integrated as a tool in the Internet control armoury of authoritarian (and other) regimes increasingly acting to oppose an “Open Web” and “Open Internet”.<sup>10</sup>

This is a critical 'turning-point' for the future of the Open Web. Your role as a global spokesperson and moral force on behalf of an Open Web, allowing you to act in the public interest globally, strongly suggests that you can break away from the growing process of “accommodation” with the corporate interests promoting DRM, just as you have done in the recent past on issues such as mass surveillance and net neutrality.

Approval of EME as a formal W3C Recommendation would greatly increase the risk of the original open model of the Web itself disappearing, as integration of DRM with web browsers will inevitably result in reducing user control and lead to centralization of control over web functionality. Your views against the centralization of the Web and fake news, as you have often and strongly presented, will only be reinforced by your taking the opportunity to say NO to a significant encroaching of the Web which will follow inevitably from DRM. After EME, we are all aware the next step will be general-purpose DRM for HTML as pushed by the publishing industry due to the W3C merger with IPDF.<sup>11</sup> It seems inevitable that in a world with EME, the web browser will increasingly be used by a small oligarchy of powerful corporations to gain ever more power over the cultural and economic life of humanity, while making it ever more difficult for new alternative browsers to be developed.

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7 <https://securityzap.com/pwn2own-2017-chrome-remains-winner-browser-security/>

8 <http://securityaffairs.co/wordpress/48820/hacking/google-widevine-drm-flaw.html>

9 <https://www.eff.org/deeplinks/2016/03/security-researchers-tell-w3c-protect-researchers-who-investigate-browsers>

10 [https://en.unesco.org/sites/default/files/eme\\_letter\\_frank\\_la\\_rue.pdf](https://en.unesco.org/sites/default/files/eme_letter_frank_la_rue.pdf)

11 <https://www.w3.org/2017/01/pressrelease-idpf-w3c-combination.html.en>



The Just Net Coalition has long supported your positions on the Open Web, as well as the W3C and Web Foundation's efforts to keep the Web open and accessible for all. Due to financial constraints, most people in the Just Net Coalition and in the larger civil society cannot afford to attend standards meetings or pay W3C's fees to allow us to participate in the W3C gatherings. We have no choice but to ask you Sir Tim, (and the W3C) directly and personally, to listen to this input from civil society and to reject the transition of EME to a W3C Recommendation.

Given that, as Director of the W3C it is within your power to veto further work or standardization on EME and so halt the spread of DRM, it is, in our view, your moral responsibility to reject EME. You must take action on DRM, or significant damage will be done to your legacy of defending an Open Web. At a minimum, you should demand that the W3C recommend that browsers provide adequate "opt-in" user control and work to establish the protection for users given by the EFF covenant.

The Internet pioneer Louis Pouzin put it very aptly, "Institutional standards should not contain elements pushed in by lobbies, since they are detrimental to public interests. Of course lobbies have financial and political means to ignore or distort standards in their products, but they want more. They need the guarantee of a reputable standard institution or outstanding individuals to boost the legalization of their marketing strategy. Resisting lobbies pressure is the name of the game for keeping a respected reputation."

The web stands at a crossroad. We sincerely hope that you are willing and able to exercise your global leadership role and responsibility on the topic of DRM. Please note that the Just Net Coalition and associated sympathetic groups around the world will help you in any way possible in this effort if you take a stand by vetoing EME's progress at the W3C.

Sincerely,

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