Amazon Faces a Fight Over Its E-Books

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SAN FRANCISCO — Last week, Jeffrey P. Bezos, chief executive of Amazon, offered an apparently heartfelt and anguished mea culpa to customers whose digital editions of George Orwell’s “1984” were remotely deleted from their Kindle reading devices.

Though copies of the books were sold by a bookseller that did not have legal rights to the novel, Mr. Bezos wrote on a company forum that Amazon’s “solution to the problem was stupid, thoughtless and painfully out of line with our principles.”

An apology was not enough for many people.

A growing number of civil libertarians and customer advocates wants Amazon to fundamentally alter its method for selling Kindle books, lest it be forced to one day change or recall books, perhaps by a judge ruling in a defamation case — or by a government deciding a particular work is politically damaging or embarrassing.

“As long as Amazon maintains control of the device it will have this ability to remove books and that means they will be tempted to use it or they will be forced to it,” said Holmes Wilson, campaigns manager of the Free Software Foundation.

The foundation, based in Boston, is soliciting signatures from librarians, publishers and major authors and public intellectuals. This week it plans to present a petition to Amazon asking it to give up control over the books people load on their Kindles, and to reconsider its use of the software called digital rights management, or D.R.M. The software allows the company to maintain strict control over the copies of electronic books on its reader and also prevents other companies from selling material for the device.

Two years after Amazon first introduced the Kindle and lighted a fire under the e-books
market, there is increasing awareness of how traditional libraries of paper and ink differ from those made of bits and bytes. The D.R.M. in Amazon’s Kindle books, backed up by license agreements with copyright holders, prevents customers from copying or reselling Kindle books — the legal right of “first sale” that is guaranteed to owners of regular books.

D.R.M. has created a new dynamic between consumers and the vendors of digital media like books and movies. People do not so much own, but rent this media. And the rental agreement can be breached by the manufacturer at any time, sometime with little or no notice.

People are also worried that the very architecture of network-connected devices like the Kindle, TiVo or iPod give tech companies unprecedented control over digital media and by extension, the free exchange of ideas.

Once upon a time, retailers sold customers a product and then walked away after the transaction. Today’s specialized devices often keep an umbilical cord to their vendor, loading updates and offering convenient ways to make purchases. These devices also limit the extent to which people can load independent software and customize their experiences.

Such tethered systems provide significant advantages to the consumer. Companies can keep their own records of what people buy and restore the content if it is inadvertently lost. Device software can be kept up to date, and vendors can track what people buy and make personalized recommendations for new material they might like.

Randal C. Picker, a law professor at the University of Chicago, says he thinks Amazon was right to delete the improperly sold versions of “1984” and argues such systems can also allow companies to better enforce copyright laws. He notes that the harm to the Orwell book buyers was minimal, since their money was refunded after copies were deleted from their Kindles.

“Because copyright infringement was poor and lax in the offline world, it should also be that way in the online world? I don’t understand that logic,” Mr. Picker said. “The whole point of moving online is that it creates new opportunities.”

But critics say that any device capable of interfering with how its owner uses media is potentially dangerous. “I worry that systems like these tethered appliances are gifts to regulators,” said Jonathan Zittrain, a professor at Harvard Law School and author of the book, “The Future of the Internet — and How to Stop It.” Mr. Zittrain predicts that governments in some parts of the world will want to use it “like a line item veto for content,” removing objectionable sentences or chapters in some books.

“It could happen first in jurisdictions like the United Kingdom, where there isn’t as rich a First Amendment tradition and where libel suits happen much more frequently,” he said.

Whether or not people are bothered by these possibilities may in part be a function of their age, as a new generation grows up with an implicit understanding of the rules around these networked devices and learns to live with them.

“I’d like to live in a perfect world where I own this content and can do whatever I want with it,” said Justin Gawronski, a high school student whose copy of “1984” was erased by Amazon, but who recently declined when a lawyer asked him to join a class-action lawsuit over the incident. Mr. Gawronski said, “This is probably going to happen again
and we just have to learn to live with it.”