

Shaping the Future of Content, One Small Step at a Time

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A battle between content owners and online services continues to wage within our legal framework and despite recent decisions involving companies like The Pirate Bay or Veoh, resolution remains a goal beyond the horizon – a vision still shrouded by obscurity. Despite this uncertainty the legal system has worked to establish a baseline; namely if a company's business model centers on copyright infringing content then by most accounts it should be deemed in violation of the law (think Grokster and The Pirate Bay). What of the online video services?

If we consider the Veoh case alone, putting appeals aside for the moment, it would seem a boon to sites like YouTube (Google) that also find themselves embroiled in a legal case, but being that this is the real world, things are hardly so simple. Between appeals and interpretations alone there is enough evidence to realize this was merely a micro-step towards an end rather than a stride. But will these "landmark" cases really determine how consumers get their content?

Perhaps less than one might initially surmise. Often the consumer will find a way to get the content they desire regardless of the venue – one of the reasons The Pirate Bay was so successful. The illicit behavior of sharing copyrighted content without authorization is, by now, an entrenched facet of our understanding of the media ecosystem – ignorance need no longer apply. In other words "consumers" know they are violating the law and yet they engage in these acts. Lawsuits have proven, by some accounts, ineffective at curtailing this behavior. Eliminating particular services may seem to support the saying "if your quarry goes to ground, leave no ground to go to," but with so many alternatives the "ground" becomes too disperse. Ultimately the "ground" may in fact be one's broadband connection. As more countries enlist the ISPs in their quest to curb piracy (often the course of action entailing cancelling a violator's broadband service) this strategic shift begins to engender additional questions. Just how involved should the ISP get in policing the data pipes and in a related way how much control should they have over their networks?

Take for instance broadband caps. Should a service provider have the ability to establish a variable pricing system for data? While this pricing model is practiced outside the US it was met with the ire of many consumers in the US – so much so in fact that it prompted the introduction of H.R. 2902 (Broadband Internet Fairness Act). But considering the caps and perhaps even traffic management (not throttling of P2P) one could argue the need to establish a framework or guidelines.



In other words should a broadband cap be allowed to increase effective cost of an online movie to the consumer? Additionally as more ISPs offer content through IP channels should their data be treated equally?

The notion of "TV Everywhere," as suggested by Comcast and Time Warner paints a grand vision, but many have been apt to qualify that statement with "but not for everyone." Granted this is a step in the right direction, but by the same token it exemplifies the issues that every member within the value chain are grappling with – release windows, availability of content, licensing arrangements, and the list goes on. There are a myriad of topics to consider when it comes to content in our new digital ecosystem. Embedded within this power struggle over the content and the consumers attention is the concern that online content and related services will become "IPTV" or worse yet pay-TV in total. But should pay-TV operators be worried?

As of this writing not particularly – in a recent online ABI Research survey (July 2009) only 7.1% of those respondents who have a pay-TV service said they would consider cancelling their premium service in favor of video content from the Internet. A resounding 57.9% said no while 23.2% said maybe and 11.8% were unsure. Granted the 35.1% would be a monumental shift should they decide to forgo pay-TV services, but provided the fractioned system we currently have, most will likely favor the status quo for the time being...and perhaps that's reason enough for some to keep any form of resolution off in the distance.

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