



Content is king but the monarch has fled

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By Thomas W. Hazlett

From time to time, a friendly skirmish arises in which media experts divvy up sides to debate the assertion, "content is king." That content and delivery platforms are complementary assets whose values tend to rise or fall in tandem is courteously set aside. This argument is about grabbing shares on the media revenue pie chart.

The game rests on a reality: it is rarely easy to set proper terms between partners. One response in the market has, therefore, been vertical integration. When one enterprise owns both the delivery network and the content that flows over it, no tricky division is needed. This approach sacrifices gains from specialisation, however. Our era is filled with examples suggesting these gains are large. They include the financial failure of the AOL-Time Warner merger, the dominance of independent (non-cable) program networks in cable and satellite, and the spectacular rise of Google.

So impressively productive was Google's laser-beam focus on search that it amassed the wherewithal to diversify, ironically, acquiring YouTube. With more than 100m downloads per day, this popular website is caught in a torrid love-hate relationship with major content producers. They feel warm affection for YouTube when it generates new revenues, but tremble when video downloads discourage (now or in the future) paying audiences elsewhere. Of the relationship between Google and cable TV channels, a media magazine asks: "partners or parasites "

Content owners like the BBC are both executing major sales (in this instance, creating three new BBC video channels for YouTube distribution) and monitoring their partners' unauthorised uses. "The partnership hasn't changed our legal position," states the BBC, "and we'll continue to ask YouTube to take down content where appropriate."

The content kings are litigating to remain in control of what they believe they own, and aligning with websites friendly to their view. NBC (owned by General Electric) is teaming with News Corp. to launch a YouTube rival allowing users to customize videos and post offerings via Yahoo!, AOL, and MSN. Disney has linked with Apple to monetize its vast video inventory via online sales. Viacom also deals its assets (MTV, Comedy Central, Showtime, and more) through Apple, and has cut a deal with Joost, an upstart YouTube. Meanwhile, BitTorrent, formerly the preferred transmission mechanism of pirates, is signing deals with Hollywood studios to distribute movies for purchase. As The Economist notes of the NBC-News Corp. deal, the "difference will be that the content spread in this manner will be entirely and uncontroversially legal, and that advertising revenues will remain under the full control of the content owners."

This activity, executed in the shadow of intellectual property rights, co-ordinates, complements and benefits society. Old media have not been crushed by the internet, nor have they dealt emerging networks a death blow. Rather, the traditional IP regime has allowed the "network of networks" to reach new heights. Questions remain, surely, as to how far property rights extend. Hammering out the details is a tangled process for which God, conveniently enough, created a rich abundance of IP lawyers.

Where it all comes out is difficult to tell. In the early days of cable television, US law was a puzzle. Should cable systems be allowed to abscond with over-the-air signals of broadcast TV stations,

re-transmitting them to subscribers? Or should cable operators - then called "Community Antenna Television" (CATV) systems - give broadcast TV stations a slice of the subscription fee pie?

This question went to the US Supreme Court in 1968 and again in 1974, an era when cable TV delivered only broadcast TV signals (ESPN, CNN, Discovery, A&E and the rest were to come years later). Both times the court held that cable operators owed nothing. In extending broadcast signals they improved reception for households, like a large antenna. The CATV business model (supplying the broadcaster's entire channel, including its original ads) was benign, a ruling more difficult to apply to today's video websites which strip old ads while inserting their own.

Courts and legislatures will figure that out. What is interesting here is that - despite landmark legal victories decades back - cable operators today lavishly reward content. To gain subscribers, cable (and now satellite), platforms shell out huge license fees for cable program networks. This content, mostly owned by TV broadcasters, is exploding in cost, mainly due to dramatic increases in program quantity and quality. In 1983, cable operators paid an average of just \$2 annually per subscriber in license fees and over \$238 in 2005. In aggregate, total payments to cable programmers from cable operators went from just \$60m in 1983 to \$16bn in 2005.

These expensive program choices appear a bargain to consumers, with nearly 90 per cent of US households choosing to pay for their video content via a cable or satellite subscription. And cable TV network now dominate broadcasting in viewer ratings.

Moral: to make their services profitable, these video distribution platforms have had to pay. So will emerging media. To some, that makes content king. Release the hounds: the game goes on.

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