



Clearing and Licensing VOD Right

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INTRODUCTION

Massive piracy appeared in the 1990s with the conjunction of three phenomenon :

- **Digitalisation**, which allowed infinite reproductions without alteration
- **Dematerialisation**, which broke traditional physical circulation constraints
- **High speed Internet**, which was built as a freedom environment where everything was available at once and at no cost

→ Piracy is the biggest on-demand service

INTRODUCTION (cont'd)

Legal VOD services are the best answer to piracy and the growing need for on-demand offers

- A. What** are the different VOD services : Definitions
- B. How** to exploit VOD Rights
- C. When** to exploit which VOD rights : Media chronology
- D. How** to maximise revenue and exposure for independent distributors

Annexure : VOD-related definitions

A. What are the different VOD services : Definitions

- Two meanings of “VOD” :
 - On-demand rental, which historically was the first on-demand service to appear
 - The whole variety of non-linear / on-demand services
- Classic VOD services :
 - VOD Rental : service offering to rent a program to screen it at the moment and place chosen by the user
 - EST – Electronic Sell-Through or DTB/DTO – Download To Burn/Own : service offering to buy a program at the moment and place chosen by the user, to permanently download and/or burn it on a digital media, and watch it almost immediately

A. What are the different VOD services : Definitions (cont'd)

- New VOD services adapted to new consumer habits:
 - AVOD - Advertised VOD or Free VOD: service offering the free screening of a program at the time and place chosen by the user (the cost being supported by advertisers)
 - SVOD – Subscription VOD: service offering to screen at the moment and place chosen by the user a given number of programs during a certain time against a lump sum
 - Catch-Up TV: service offering the screening, at a time and place chosen by the user, of a program that was recently broadcast on TV
- The service can be free or paying (e.g. to screen a program that was broadcast by a pay TV channel)

A. What are the different VOD services : Definitions (cont'd)

- Distribution licenses should include not only VOD rentals but the widest range of VOD services :

Any and all forms of non-linear exploitations of the Picture by any and all means now existing or hereafter devised (including cable, DSL, satellite, Internet, etc), for rentals and/or sales, individually and/or by pack and/or against a subscription

B. How to exploit VOD Rights

- TV channels seek :
 - To freeze all VOD rights during their window
 - It can be limited to rental VOD & AVOD, excluding EST
 - To exploit VOD rights by way of catch-up TV / SVOD
 - It can be limited to pay catch-up TV / SVOD

- Video editors seek to exploit all VOD rental & EST rights
 - It can be non-exclusive VOD rental rights & exclusive EST
 - It can exclude SVOD rights

B. How to exploit VOD Rights (cont'd)

- VOD platforms seek :
 - To have exclusivity
 - Most VOD rental markets are on a non-exclusive basis
 - Exclusivity has a price and/or a short term
 - Or to be able to sublicense
 - sublicensing can be forbidden, to cut intermediates
- When licensing a VOD platform :
 - Distributors must be able to freeze rights in case of TV sale
 - Catch-up TV should be specifically excluded
 - SVOD can be excluded or organised (e.g. max of x films per month, minimum fee per viewing...)

B. How to exploit VOD Rights (cont'd)

- If the VOD service is a substitute to a traditional media :
 - The one paying more should naturally be favoured
 - e.g. AVOD is direct competition for free TV channels
 - e.g. SVOD is direct competition for pay TV channels

- If the VOD service (e.g. catch-up TV or EST) is an accessory of a traditional media (e.g. TV or DVD):
 - There is no choice but to grant the rights, but not necessarily for free
 - Other VOD services should not be blocked
 - e.g. catch-up TV rights can be granted to pay TV channels, and SVOD frozen, but VOD rentals should not

C. When to exploit which VOD rights : media chronology

- VOD should not affect the classic principle : chronology starts with biggest price for an individual (theatres) and end with smallest price for the largest groups (free TV)
- Most European markets have placed the VOD rentals and EST at the moment of the video DVD release (not before)
- SVOD services are better placed after pay TV channels, until they pay more
- AVOD services should be avoided until the license fees are significant : such services potentially dry up the value of a title
- Catch-up TV services are not a chronology issue, but the number of viewing or transfers allowed can potentially also dry up the value of a title

D. How to maximise revenue and exposure for independent distributors

- Most VOD platforms only concerned with offering a wider selection of titles than their competitors, not maximising revenues of each title
- It is rarely possible to control the price policy of a platform, but it is always possible :
 - not to work with those that dump the market (generally to sell other services, such as Internet access)
 - Or to ask for a guaranteed royalty, independent of the sale price

D. How to maximise revenue and exposure for independent distributors (cont'd)

- The need of promotion / editorial support is stronger than on any other exploitation except theatrical
e.g. in France, during year 2007, the first 50 films represented 60% of the admissions in theatres, 19% of the DVD sales and 33% of the VOD rentals
- The long tail theory can be a reality, but only with strong editorial & recommendation tools
- Aggregation of independent distributors/producers to obtain better rates and exposure
e.g. Universciné, Content Republic

ANNEXURE : VOD-related definitions

- Aggregator : sales agent gathering VOD rights mandates to obtain better conditions than if rights were sold separately.
- Portability: technology allowing to transfer on a portable device (e.g. iPod, Archos, mobile phone, laptop) a downloaded program. The number of screenings can be limited in time or not, and the number of transfers can be limited or not.
- DRM – Digital Rights Management: Digital key restricting the use of an electronic file (e.g. forbidding transfers, or limiting the number of screenings or the time during which the program may be watched)
- STB – Set Top Box: electronic box gathering Internet access and/or phone and/or TV services, generally using the DSL technology.
- Streaming: technology allowing to screen a program without the program actually being downloaded on the user-hardware (computer or TV).
- Temporary Download: technology allowing to download a program, at the moment chosen by the user, which the user will only be able to screen a certain number of times and during a certain period of time.
- IPTV – Internet Protocol TV: commonly referring to a TV service broadcast through DSL services. When the VOD is exploited on IPTV, it means the service is available on a TV connected to a DSL network through a set top box.

ANNEXURE : VOD-related definitions

→ VISIT WWW.VOD-NEWS.NET FOR MORE INFO