

Maneesh Pangasa

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U.S. Copyright Office

1010 Independence Ave., S.E.

Washington D.C. 20559-6000

To the Librarian of Congress and/or Registrar of Copyright;

I would like to start by thanking you for providing more time to comment on this Making Available Study. As a consumer I have used both physical and digital media and weighed the pros and cons of both. Digital media sales via Apple iTunes Store, Google Play Music or Google Play Movies & TV etc, Amazon Instant Video and Amazon Mp3, Microsoft's Xbox Music and Video enable these companies to lawfully provide content to users of their platforms.

The downside of buying any content from just one of these platforms is the potential for consumer lock-in. If you buy music or movies and TV from iTunes the cost of switching to an Android device prohibitively becomes more expensive as all the content purchased from iTunes would have to be repurchased from Google Play or Amazon. Fortunately, users of Apple's iOS devices can buy from Google Play or Amazon and still access their content on their iPads, iPhones and iPod Touches as these companies have developed apps which Apple have agreed to distribute via its App Store to access content purchased for their platform. Most of these firms don't allow in app purchases via their iOS apps (though some companies with similar apps do) as they don't want to share a portion of their sales with Apple.

If you have ever bought digital comics from the Marvel Digital Comics app for iOS or DC Comics app for Apple's IOS the user is billed via Apple which keeps a 30 percent commission on each sale. However, for Amazon Kindle books, Amazon Instant Video or Google Play purchases you have to buy via your web browser at the merchant's website and then the digital content becomes available to download and/or stream via their iOS app.

The biggest cause of consumer frustration when it comes to movies and TV is licensing restrictions and arcane windows for content licensing. Every few months Netflix is forced to remove some films from its streaming catalog but attempts to make up for it by securing streaming rights to some other films. This is an epic fail from the consumer perspective. Why could Netflix not continue licensing films like Terminator 2 which was pulled earlier this month from their streaming catalog? It's good for them to continue adding content but why replace some films with other films. This same problem affects the Apple iTunes Store and other digital outlets. Some premium movie channels like Starz have exclusive licensing deals to content that stipulate when they get access to content other platforms previously selling such content can no longer offer it.

These movie licensing windows are arcane and insane from a consumer perspective. Why could Netflix not continue to offer Terminator 2 even if Starz got it? Why do films one company has distribution rights for have to be removed if another company gets it? These exclusive windows are outdated. I have spoken before about Aerero a company that is revolutionizing TV and giving consumers what they want. Instead of embracing the future of TV which is a la carte online streaming and downloads the broadcast industry which has a public interest mandate it's forgotten about and ignores decided to sue to get the company shut

down. Unfortunately, the Supreme Court sided with them saying Aereo's defense it is not a cable TV provider meaning it does not have to pay royalties for content was unacceptable. Afterwards Aereo tweaked its business model and requested a statutory license to operate as a cable TV provider from the Copyright Office. Aereo agreed to pay a small fee for permission to retransmit broadcast signals over the Internet.

There are two types of royalty licenses the statutory kind the Copyright Office grants which are on reasonable terms and affordable – pay a small fee and you can be licensed to offer content and the type of royalties the big cable and satellite TV providers have to pay to broadcast and cable TV networks which are more expensive and require bundling lots of channels. Unfortunately, the Copyright Office has already stated it does not believe Aereo should qualify for statutory licensing. News flash for the broadcast industry whether or not Aereo survives consumers wanting a la carte broadcast TV can still get it for free and broadcast networks are mandated to provide free over the air TV access via antenna.

Even with the digital TV transition it is possible to get broadcast TV channels for free all you need is a DTV converter box to convert the signal from your analog antenna to a digital one or buy a new digital antenna. Amazon.com has some cheap and effective digital TV antennas some are even indoor and they sell for \$9.00. Users who liked Aereo's cloud DVR aspect can get a subscription free DVR also from Amazon for roughly \$250 and then record broadcast TV for free. So a la carte broadcast TV with or without Aereo is possible. The broadcasters hated Aereo for making a la carte broadcast TV even easier by reducing consumer's need to own special equipment to watch their programs freely. A la carte is the future of television it is more

affordable to consumer's attempts to prevent a la carte are aimed to protect an outdated business model.

Furthermore, while I have bought digital films and TV in the past, and even music due to DRM restrictions and the possibility of said content being removed in future from the digital store I shop from or even from my cloud library I have moved back towards physical purchases. Since digital purchases cannot be resold and lack the fair use rights of physical media I am likely to avoid digital purchasing in future. The movie and music industry also remain at odds with the Open Internet to this day. After failing to lobby Congress to pass Internet blacklist legislation they have resorted to implementing a blacklist through the courts and through trade agreements like the Trans-Pacific Partnership to which I'm opposed. They have even teamed up with the W3C to impose DRM in HTML5 which is antithetical towards interoperability, open standards and violates the principles of an Open Internet.

Thank you for this opportunity to comment on this proceeding.

Sincerely,

Maneesh Pangasa

3562 S 18th Avenue

Yuma AZ 85365-3937