

A DIGITAL CONTENT SOLUTION: Crafting a Win-Win for Creators and Consumers Online

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Amid the wonders of the Information Age that gave birth to the Internet and the World Wide Web is the vexing and unfinished business of, who owns the content, who pays for the content and all of the other issues surrounding modern copyright law and digital content distribution. The complexities of digital information and distribution systems have obfuscated the solution, which lies in previous advancements in technology that resulted in legal precedents and is, after all is said and done, quite simple: the Blanket License Agreement.

When radio was born the music publishing business reacted in horror at the thought of all music being distributed over the airwaves for "free." They believed that it was the end of their music distribution business. It was not. It was only the end of their monopoly in music distribution. Much to their surprise and disappointment, the solution to that dilemma of technology and creator's property rights balanced with consumers desire for easy unencumbered access to music broadcasts was the Blanket Licensing Agreement that all parties have lived with since that time. It works like this: a blanket license is a public performance license that allows the licensee the right to use any song under the supervision of a performing rights organization (PRO), such as the American Society of Composers, Authors and Publishers (ASCAP) or Broadcast Music Incorporated (BMI). The licensee pays an annual fee to have the right to perform any of the songs in the PRO's catalog and reports their uses of the music. The more music they use the more they pay. The PROs in turn pay the creators of the music based on a sampling of the radio playlists and statutory rates per performance. Royalties, fees for music use, are collected from TV and other sources in similar ways.

In the current era, there have been many advances proposed and some made to include performers, singers and musicians in these blanket licensing agreements for all forms of media. In this age of consilience, we look forward to all the creators of music and music copyright holder's participation in the profits thereof from all media sources. The question is then, when this occurs, whom will the

blanket licensing agreements be with? Who will pay the royalties? Let us look at the radio agreements for the answer.

In any consumer transaction it is the “point of purchase” that determines who pays for any product. That is where the consumer, compensating the creator for the received product, pays for access to or possession of the product. This works the same on a wholesale as well as retail level. In radio, the point of purchase is when advertisers pay radio stations for airtime so that they can advertise their products to the listeners of the music or other broadcasts on the radio. That is where the profit in radio lies: the use of recorded or live audio content to attract listeners who can be advertised to. To the listener it seems that the “music” or other content is “free.” In fact it is paid for in the background by a transaction between the advertisers and the broadcast entity profiting from the use of the content. Then a fair part of that broadcaster profit is paid to the content creators for the use of their product. The transmission is the transaction, financed by the advertiser and consumed by the listener. For advertisers and broadcasters it is the fair price of doing business. For the content creators it is the fair compensation for their intellectual and real property. For the listener it is the marvel of “seemingly free” content and the unencumbered access to it. Now, let’s take that solution and apply it to today’s problem.

In the modern world of the Internet, the World Wide Web, we can identify the same three entities of the aforementioned transaction: the creator, the broadcaster and the consumer. The content creators remain the same with the addition of the “remixing” of digital content by amateurs and professionals alike. The consumers include everyone receiving content over the technology and the devices or hardware connected to it. So, who is the broadcaster? It is the Internet Service Providers ~ the ISPs.

Apple’s success can be greatly attributed to Steve Job’s foresight that all of the software and electronic systems and connections that comprise our new digital world can only be accessed by “hardware.” An Internet Service Provider connects every piece of hardware to the Internet. They are the new broadcasters, the new medium comprised of all of the old media. You can access them over phone lines, cable lines, WiFi or by satellite. In every case someone pays the ISPs for that connection. Either the consumer pays directly or a business establishment pays or a municipality etc. Most of the time those rates

are quite high. That is where the profit is and that is where the New Blanket Licensing Agreements need to be applied.

So, you see, no child has ever “stolen” a creator’s content. There is no such thing as “free” content. Suing consumers over perceived “non-payment” or “infringing” use is not only bad for business but also factually inaccurate. Someone always pays. In fact, if any theft or freeloading has occurred it is by the ISPs. Why? Because the ISPs are not paying the creators a fair share of the rather substantial profits on what is essentially the new Broadcast Medium, the Internet. Let’s look deeper into the process that lies beneath the GUI surface, graphic user interface, of the Web.

When you upload a song or video onto any Internet site or service, it has embedded in it a code: ISRC, the International Standard Recording Code, the internationally recognized identification tool for sound and music video recordings. That is how the ISPs track that data and boast about knowing who is hogging the capacity. In the world of digital content, all content can be identified, tracked and compensated for. That is the key to this concept. This can be applied to more than music and videos. It would work for films, TV shows, books and even blogs, social network posts and comments. If it can be identified, it can be tracked and it can be compensated. Even “remixes” of any and all media sources could be analyzed digitally and all of the various parts identified, tracked and compensated seamlessly in the background.

Of course this is a general view but it is a comprehensive solution, an elegant and simple solution to a complex and seemingly intractable global conundrum. Many details would have to be negotiated. All stakeholders would have to participate but the goal, a solution for creators and consumers, has always been right there in front of us. All we had to do was identify the true players and the point of purchase.

As Marshall McLuhan once told us: the electronic world is not linear it is “all-at-once” ~ past, present and future at the same time. So, let us use the solutions of the past for the dilemma of the present and craft a win-win future for everyone on the Internet and World Wide Web.