

Streamed Video Licensing: Issues and Challenges for Sellers and Buyers **Video-on-Demand and Libraries: New Vistas and New Solutions**

Institutional Uses of Video

- **“Just-in-Case” Collections:** Comprehensive standing collections of print and online materials selected to anticipate a broad range of current and future teaching, research, and general institutional needs.
 - Broad/long-term functions: fostering the discovery and use of new resources, and providing and preserving a range of unique materials not widely available in the information marketplace.
 - May also include materials requested to support specific curricula or programs.
 - Generally the province of academic libraries, rather than other institutional support units (such as IT, etc.).

- **“Just-in-Time” Collections:** Materials acquired to meet specific and sometimes temporal teaching needs, both in the classroom and for individual study outside of the classroom.
 - May be incorporated in larger standing library collections.
 - “Just-in-time” collecting (for course reserve viewing, classroom screening, etc.) may be the only type of video acquisition supported by a library or learning center.
 - May be brokered by organizations outside of the library, such as IT and classroom support units or individual teaching departments on campuses, or by district or regional school media distribution/curriculum support centers.

- **General Circulating Collections:**
 - Materials selected to meet the broad entertainment and educational needs of community users.
 - Most commonly found in public libraries...
 - Rarely attempt to be comprehensive in scope or size.
 - Currency and popularity of titles is frequently a primary criterion for selection and retention.

Forum Comments:

- Option to license on semester basis at lowest price possible as an answer to "just-in-time" needs
- One "licensing agreement" doesn't fit all organizations. Working with distributors is critical at this stage of digital delivery

- Should pricing models reflect how the media will ultimately be accessed? For example titles being cataloged for standing collection vs. titles being used for a specific class only.
- Libraries may have collections built out of all 3 models. A research library eventually transforms all acquisitions (i.e. materials purchased for specific classes and materials purchased for broader teaching and research use) to "just-in-time collections"
- Is there a need for consortium-based "just-in-time collection", for community colleges in a state, for example?
- Materials purchased for specific courses are less subject to cuts than materials purchased "just in case."
- IT units are not experienced (or invested) in collection development.

Streamed Video Licensing: Issues and Challenges for Sellers and Buyers **Video-on-Demand and Libraries: New Vistas and New Solutions**

For libraries and educational institutions, online video access potentially addresses a number of pressing problems and evolving needs:

- Increasing user expectations and demand for remote, 24/7 access to library resources. These expectations are, at least in part, being driven by the proliferation of open-access media on the web.
- The critical need to preserve and/or replace deteriorating collections of older media, such as videotape.
- Budget limitations on the purchase of multiple copies and replacement copies of vhs/DVD titles.
- Mounting pressures on library viewing facilities, equipment and services in the face of increasingly intense collection use.
- Common use of online teaching/learning resources, such as learning management systems (BlackBoard, WebCT, Sakai-compliant systems), which allow the incorporation of media content.
- Changing client demographics and changing educational programs to serve these clients (distance education; adaptive resources for disabled clients; remote library services, etc.)
- General trend toward resource sharing among libraries and other educational and cultural institutions.

Forum comments:

- Need to be able to broadcast in "clean form" (full screen mode) for class projection
- There are inconsistencies in the interpretation of which uses of copyrighted digital media are currently allowable under Fair Use and TEACH provisions)
- Need to support meta-data features, including chapters, segments, standards, correlations, etc.
- Implications of move to digital for inter-library loan and resource sharing: end of lending and diminishment of resource sharing or archiving will result in major impacts on access for users for the short and long-term.
- Cost savings of move to digital collections, include no loss or theft of hard-copy. Possibility of fewer replacement costs, depending on license agreements

- How do we make patrons aware that these resources are available to them and train faculty and other users how to best utilize them?
- How will new digital video business models address the needs of distance learning in institutions that have no brick & mortar component? How will they affect academic departments which have had to purchase digital content not supported by the library?
- Library marketing of 24/7 resources still a problem

Streamed Video Licensing: Issues and Challenges for Sellers and Buyers **Delivery Models**

- Digital files for individual titles produced by distributor, supplied to client (on disc, hard drive, FTP, etc.), maintained on and streamed from local server
- Digital files for individual titles encoded by client (or outsourced), maintained on and streamed from local server.
 - License agreement generally mandates user authentication via password, IP address, digital rights management software, etc.
- Streamed access to individual titles or a library of titles via remote distributor server
- CDIGIX (cdigix.com) model:
 - Largely geared toward limited-term, “just-in-case” delivery of course materials.
 - Generally bypasses content licensing completely.
 - Client ships selected tape or DVD titles to vendor (purchased materials, locally produced titles, etc.). Vendor encodes and returns files to client for local delivery via proprietary delivery system that includes digital rights management.
 - Obligation to interpret and comply with copyright/licensing terms is left up to the client.

Forum Comments:

- Patrons may be interested in viewing on portable devices in addition to computers; however, issues related to downloading would have to be addressed.
- Desire to be able to host on local servers and control delivery; would like to move away from having to “buy” vendors’ delivery system
- Licensing terms/DRM can conflict with other rights, e.g. Fair Use
- Could limiting the number of synchronous digital video users allow for lower prices?

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Licensing Models

1. Flat-fee, In-Perpetuity Licensing

- Parallels current model of DVD and print media sales (“buy once, keep always”).

- VoD files maintained on client's server; files either purchased from vendor or encoded locally.
- Cost of licenses frequently based on whether institution currently owns DVD/tape copy of title(s) being licensed.
- "In perpetuity" = "life of file"; transfer to other formats requires re-negotiation of license.

2. Flat-fee Term Licenses

- Term of the license = typically 1-5 years; cost of the license is a flat fee for the term.
- License costs for single-institution clients similar to the institutional cost of the DVD for the title.
- Cost generally contingent on the institution having previously purchased a DVD copy of the title. Cost commonly = x2 cost of the DVD.
- License costs are the same regardless of institution type or number of users within a single institution. Costs adjusted for multiple-institution consortia and other broad-area use.

3. Graduated-fee Term License

- Cost of the license pegged to various user parameters, e.g., total full-time enrollment; number of concurrent users; budget size, institution type, etc.

4. Standing-Order Model

- Access to distributor's entire video catalog (or a subset of it) for a fixed, renewable term.
- Generally hosted by distributor/vendor (although there may be provisions for local hosting of part or all of the collection)
- Potential licensing models for this mode include:
 - Fees that remain fixed regardless of the collection size
 - Licensing of a base collection with additional fees for each new addition (or licensing of base collection with smaller annual "custodial" fees)
 - Fees based on one or more of the criteria discussed in 3 above.

4. Curated Collection Model

- Access to a subject- or genre-based collection selected by a distributor, sometimes in collaboration with outside experts in a particular field.
- Generally hosted remotely (although there may be provisions for local hosting of part or all of the collection).
- Various pricing options, including annual subscription for remote access, or outright purchase of perpetual rights for local hosting.

5. Pay-for-View

- Several Models possible, including:
 - "Textbook model": students are required to pay for individual course-assigned viewing.

- "Jukebox model": users pay for temporary online access to a library of titles; or institutional "rental" to serve a particular class for a limited term (in-class screening and/or VOD access by students in the class).
- Individual users stream and/or download videos directly from the distributor's server or a third party content aggregator (e.g. iTunes, Amazon, Jaman, UnBox).
- Payment per temporary download or stream; users pay a charge per view or per short-term access to a file.
- May necessitate accounting/tracking mechanisms for differentiating between classroom/library uses from low-cost student recreational use.
- One alternative = mixed distribution mode. Library continues to build collection of physical media or streamed media accessible within libraries and classrooms only; individual, on-demand viewing outside of these venues would be pay-per-view.

Forum Comments:

- Do not want to lose selection authority in move to "bundling" model for VOD (i.e. vendor-assembled collections); many are frustrated with this experience in E-Books bundling models
- Patrons who use library streaming access would not necessarily elect to pay to view
- Additional model being tested with Arizona and FMG: Free access to a vendor's VOD collection, after a specific video is viewed a certain number of times (variable by institution), the customer is charged.
- Difficult to get IT and Tech Services on board with the long-term issue of managing licenses and content
- Pay per view model is not acceptable in academic library and media collection, but could be a way of expanding revenue in addition to institutional sales
- Standing order/curated model is cost-prohibitive for some.
- Student anger over textbook prices is likely to apply to the idea of needing to pay to view material required for coursework.
- FTE costing penalizes large institutions. FTE model does not relate realistically to actual number of times a title is viewed.
- Institutional budgets should be considered in addition to FTE
- It is difficult to give up ownership of DVD or video. It will be difficult to add new titles if money is tied up "rebuying" certain titles.

Streamed Video Licensing: Issues and Challenges for Sellers and Buyers: Licensing Models: Term v Perpetuity

The Librarian's Perspective:

- Notion of repeatedly "re-buying" a single (monographic) is foreign to most libraries.

- Licensing models for electronic books (ebooks) do not strictly parallel VOD term licensing:
 - Typical number of annual new additions to most VOD vendors' lists is substantially lower than ebook vendors.
 - Cost of ebook access frequently based on use of individual titles; when a certain use threshold is reached, the library "owns" the electronic book in perpetuity.
 - Licenses with ebook providers increasingly include the right to maintain (but not deliver) an archival copy of the licensed titles on a local server.
- Model would require making term licensed videos part of the library's on-going serials budget, diminishing money available for the purchase of new titles.
- Periodic "weeding" or "turning off" of underutilized online video titles may become a necessity: access could diminish rather than increase over time.
- In research institutions particularly, this runs counter to broader library mission.
- Valuable VOD titles may eventually be taken off-line because of filmmaker/distributor contractual agreements.

Forum comments:

- Re-buying not a completely foreign concept, as we do have to replace DVDs and videos because of wear and tear or format changes.
- Term licensing can be desirable if the price is right
- Need to include ILS vendors in discussion: maintenance/purging of content with expired licenses should be made easier
- University legal offices may require conditions that vendor will not agree to
- Does the library's mission require that they own or provide access to resources?
- Licensing funds could come from money freed up by not buying containers
- Need to consider revenue filmmakers realize through public screenings.
- "Weeding" process may depend on vendor intervention, as opposed to traditional physical deselection
- Maintaining large numbers of variable-term licenses can be prohibitively expensive for many libraries
- Re-buying titles limits the number of new titles a library can purchase
- How will Fair Use be considered in these models?

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Licensing Models: Term vs. In-Perpetuity

The Distributor's Perspective:

- Contractual agreements between distributors and filmmakers are seldom signed "in perpetuity".

- Filmmakers are often contractually obligated to renew rights agreements with various intellectual property owners for stock footage, music, and other materials incorporated in their films.
- The practice of term licensing of online video content is frequently based on certain distributor assumptions about the expanded audience for such material and the added value of online access.

Forum Comments:

- Can licenses be written to allow for in-perpetuity rights to include format migration?
- Will more vendors agree to "in perpetuity" rights if the license is for a specific file format only?
- Licensing in-perpetuity rights for digital delivery would significantly escalate production costs (i.e. costs of stock footage, etc. in the face of such agreements)
- Very few programs have a sales life beyond 5 years.
- How do we determine the affect a new delivery model will have on audience? (i.e. what the market will be?)
- What happens to these contracts when distributors merge or go out of business?
- Online access is not an added value: it is the service being provided in many cases when the institution already owns a DVD or VHS tape.
- While in perpetuity rights make sense for individual titles, some may just be sitting on the proverbial shelf.
- Licensing models should be flexible/adaptable to the needs of the institution, taking advantage of the flexibility of web platforms.
- Need to recognize actual usage of individual titles and not base pricing solely on FTE.
- Maintenance costs seem justified in vendor-hosted models, but why should institutions hosting their own content be required to renew?
- Perhaps term licenses should be based on academic terms: this poses a problem for tracking current licenses.
- Few companies can offer in-perpetuity rights
- How will vendors overhaul their marketing strategies in light of these new models?
- How will we give/get more for less?

Streamed Video Licensing: Issues and Challenges for Sellers and Buyers **Licensing Models: Flat Fee**

Distributor's Perspective:

- Value-added nature of VoD (convenience, expanded access, etc.) may warrant license fees that are higher than the institutional price of the DVD.
- Market impact of VoD's expanded audiences may justify higher costs.
- Charging less for licensing lesser-used or more obscure titles than for high-use, core curricular titles may be one way of spreading out the costs equitably.
- A way needed to distinguish between "just in case" and "just in time" licensing-- between archival and curricular use, e.g.:
 - Selling perpetual rights at low "archival prices" after selling them for high "curricular prices" for the first five-year license, or five years after a film's release.
 - Titles with little curricular use sold at low prices for a low number of uses only

Librarian's Perspective:

- Actual market impact of a switch to VoD is unclear.
 - Libraries currently buy limited numbers of DVD copies which are circulated and watched repeatedly by individual patrons and shown to groups in multiple classes.
 - Total number of sales of an individual title to an institution over the life of the DVD is limited.

Forum Comments:

- What is a fair flat fee for high schools?
- How can small- and medium-sized academic institutions afford flat fee models?
- Large institutions might benefit from a flat fee model, but this seems unrealistic as academic institutions are generally charged 3 times as much as public libraries
- Costs should be discounted if the library produces the digital file in-house
- While streaming does add some value, the quality of the delivered file is still below DVD quality
- May be more advantageous for a school district that is not receiving increased capital funds to purchase a box with content as opposed to hardware without content
- Flat fee may make more sense from the distributors' perspective, after a few years, titles usually just sit on the shelf (pay per view model will eventually become less profitable).
- Documentaries that may be under-used at one institution may be the most popular at other institutions
- How does the flat fee model apply to institutions with multiple campuses?
- The audience in the VOD environment may not actually be "expanded." In reality, it may be just as limited as the audience for the physical DVD.
- An "all or nothing" model is not affordable-- most institutions need to license on a title by title basis.
- Perpetual rights are necessary for academic libraries to allow for preservation.
- What are the expectations regarding common digital files for consortia?-vendor

Standing Order Model

Librarian's Perspective:

- Unlike journal databases, which regularly add new content, the catalogs of most video distributors increase at a fairly slow rate.
- Subscribing wholesale to a block of material short-circuits the collection development process, and presumes that everything in the catalog has equal value to users or continuing value over time

Curated Collection Model

Librarian's Perspective:

- Purchase of "readymade" collections short-circuits the collection development process, and presumes that everything in the curated collection has equal value to users or continuing value over time.
- Ability to pick and choose titles in a curated collection should be one option available from the distributor.
- Benefits of such collections include the convenience of licensing a body of materials from a single source. Some vendors (e.g. Alexander St. Press) also offer important value-added features, such as indexing and search tools for such collections.

Forum Comments:

- Standing order model is problematic in regards to diversity of collections and the changing interests/curricula of teaching and adjunct faculty
- S.O. results in pressure on vendors to develop approval plans and shelf-ready services
- Standing order model would be cost-prohibitive for small institutions, which could not afford to set up such arrangements with multiple distributors--can barely afford the titles needed now.
- Some titles are used for 20 years, some only once. Multiple models for bundles would be valuable.
- Should curated collections be separated from their vendor platforms so that schools can use home grown systems?
- Ability to pick and choose titles from the curated collection should be an option
- Librarians know the interests of their faculty and students; flexibility in bundles would be helpful in allowing for differences between institutions
- Bundles could be helpful if sold as particular faculty member's teaching module
- Subscribing to a particular number of items and then switching titles with academic terms/annually could be a nice option for bundles
- Can the curated model deliver enough value over the standing order model?
- In times of shrinking budgets/resources, we might not have funds for complex subscription models/bundles
- Value-added features can be offered in other models (besides curated model), including pay per view

- A school district with limited funding can bid for a distribution system based on content, accessibility and ease of use in addition to cost!
- Some distributors are still in the business of production and not acquisition

Licensing Models: Pay for View **Librarians' Perspective:**

- Selecting, describing, and preserving culturally significant materials = the core of the library's mission. Forms of information access such as pay-for-view which are purely commercial, ephemeral, and brokered outside of the library do not benefit from any of these important functions.
- Technical, accounting, budgeting, legal, and philosophical barriers might exclude pay-for-view as an institutionally supported option.
- Potential benefits:
 - Expanded content universe
 - "Acquisition"/access tied directly to known user needs and wants
 - May increase audiences for indie documentaries and more obscure works
- Print and video resources do not have equal academic valence in most curricula. Faculty may be reluctant to assign viewing, unless the cost per student is kept very low--in the \$1-5 range per school term.
- Common student practice of viewing films in multiple sittings or viewing a film repeatedly for close study would make low cost per view imperative.
- The higher the cost per view, the greater the likelihood of piracy and illegal peer-to-peer sharing by students.
- Net number of titles purchased by an institution may substantially decrease if this model were to predominate.
- "Just in case" collections may be replaced by a much narrower range of titles assigned by selected faculty "just in time".
- Bypasses the role of librarians in serving as campus advocates and publicists for effective media collection and use.
- Distributors would be required to market their works and to sell the idea of required student purchase of video content directly to faculty and academic departments.
- Computer technology is not universal among student and researcher populations. Pay-for-view model may contribute to the problem of information inequality.

Forum Comments

- Marketing directly to faculty is problematic; they have limited time and are not prepared to handle negotiations with vendors or tech support for students.
- Students will resist pay per view model, will have viewing parties or share files rather than buying them
- Does not seem like a useful way of providing curricular content
- Couldn't pay-per-view be managed by the library at the beginning of the term, like coursepacks?

- PPV is technically and commercially easy to implement
- Reasonable PPV prices: \$1 per term is doable, \$5 per term is too high
- How do we negotiate multiple viewings by students over a term to provide for review, essays, etc? How is this balanced with ensuring multiple students exploiting this access?
- Passing the financial burden on to students is not acceptable, nor is it equitable.
- PPV penalizes use and scholarship
- Faculty are often unaware of relevant titles to their coursework and either find them because they are in the collection or because they are suggested by the librarian. By-passing the librarian will likely ultimately decrease sales.
- Need for a "one-stop" centralized shopping intermediary
- Students don't pay to borrow videos and many may not be willing to pay to watch assigned videos.
- Why does the library's "core mission" depend on ownership of physical DVDs?
- Students do not like paying for textbooks, they will not want to pay for assigned videos, especially not educational videos.
- PPV also provides indies with access to film viewers world wide-- a desirable goal

Licensing Models: Pay for View **Distributor's Perspective**

- As the means for commercial delivery of streamed video over the internet become more technologically and economically robust, the more incentive there is for independent distributors to circumvent libraries and adopt a pay-per-view model.
- The average Jaman.com user (often a student) pays \$2 for a stream; yet a university pays considerably less per capita to stream the same title for course-related viewing.
- The most popular products have been seriously under-valued by the educational market, while the more esoteric titles may have been over-valued.
- If there is a mass market for educational titles, it is possible that educational media will be swept up into that market, just like trade books, laboratory chemicals and pencils.

Forum Comments:

- In the PPV model, does the student or educational institution pay?
- There is mass market appeal for some academic media and that media will be available at mass market prices, but most academic media does not have mass market appeal and this will require premium prices paid either by students or the library.
- It is necessary to differentiate between streaming and file sharing
- The goal is not to circumvent libraries, but to reach more viewers with a richer offering of educational material
- PPV doesn't necessarily circumvent the role of the library collection, it is a convenient service for faculty and students

- In an environment where teachers and students are downloading/uploading to YouTube for instructional/curricular use, does this seem like a profitable model?
- If PPV is the only model, the role of the middle guy (the distributor) will be lost-- this would be a travesty.
- PPV model leaves libraries and librarians out of the picture-- not practical
- Possible to wrap educational titles into product solutions for the new federal aid requirement that colleges provide alternatives to illegal P2P-- i.e. sell netflix like subscriptions with can include access to selected educational titles.
- This would work if the infrastructure of librarians and distributors was not longer valuable-- keep this value (strengthen)