

DIGITAL RIGHTS: management and co-operation, 13 October 2004

Session 3 - Realistic, efficient management: how it works and can be improved

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I find myself in the fortunate position today of actually being able to agree with some of the earlier speeches. That is not always the case when I speak at Network Insight seminars.

I will start with my points of difference and focus on conventional broadcast long-form programming, which I think has been quite a theme so far. One of my hypotheses is that in the future there is going to be a lot more short-form content, snippets - factoids as I think they were called this morning - distributed to a wide variety of devices. Some of that content will derive from traditional long-form broadcast content but a lot of it won't. There has been very little focus on text media so far, and I am going to make some comments related to that.

My next major point of difference is less around the technology but more around the business models and business processes that drive those business models, and the technology that should support those, and isn't the main game in DRM. So those are going to be the major points of difference in what I am going to address. My accompanying slides refer to high spot comments on some of the points I want to make.

Very, very briefly, DRM, is a commonly used and a typically misapplied term. There is a perception that what it applies to is rights, royalties and protection. A lot of the focus has been around protection, which is an essential part of DRM, but I think the rights and royalties, whilst mentioned to a degree earlier, have been a little bit under-done.

Digital rights management is only one part of the overall value chain in the new digital market. It has been driven by all the things that were described earlier: principally, of course, digitisation, enabling technologies like broadband access, wireless access; and business drivers like the change in some business models and a degree of pressure on

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some of the business models. However, I agree with Will Berryman's comment that mainstream mass media is still going to be around for a long time to come.

This is just one component of what everyone is calling convergence which, I want to stress, is a supply-side phenomenon. That is, we in the industry think of convergence but the consumers think of what they want to do. They don't think 'I am a converged consumer'. They just think 'I want my music on my hi-fi and I want to download it off the Internet'. They don't think 'oh, and that's convergence'. So convergence is very supply-side phenomenon, and we should remember that when we are taking these new media messages out into the market.

Looking at the value chain in a little more detail, but in a very simplistic way, there are two types of rights that we need to think about, just in terms of trying to get some structure around this. There are what we call *contributor rights* and *distributor rights*, and they are different. There is still a flow of content and some rights and some money, but broadly speaking, the business elements that go around can be quite different between the contributor and the distributor.

Just as an aside, Dominic Stone made a point earlier about the second-last link in the chain being where all the value was. I would like to take issue with that just for a moment. If you think of the value chain as a series of elements in distribution, traditionally what Dominic said has been right. The margin has been an 'unhappy face' in the sense that the margins are higher in the middle of the distribution chain for media companies. What we have seen as new media have been introduced, is that the margin pattern has changed as some of the middle part of the chain is getting competed away. We have actually seen a margin shift that goes through a much 'happier' distribution (i.e. higher at the ends of the value chain) which is a sort of 'smiley' margin, were the original content provider starts to get increased margins relative to the middle, and also that the very last step in the chain tends to get increased margins as well. We have seen that from looking analytically at a number of industries as new media has become a bigger and bigger part of the chain.

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Returning to one of my key points, this is not about technology; this is about business processes and the range of flexibility about business models. There are so many different ways you can do this, some of which work, some of which won't work, some of which are already not working; but the point is that the technology is only a small part of that.

At a high level, six business processes are impacted across the contributor rights and the distributor rights framework. I am only going to pick up on one of them as a key point and that is in the payments/collections rather than the settlement part of the financial flow.

What we are seeing here is that although micropayments are possible, and micro billing is possible, the relative efficiency of it is actually nowhere as good as 'macro' (conventional) bill payments. So the transaction cost is relatively high compared to the financial value. That is an inhibitor because it is something that the cost structure of the new business models has to bear, and it is a little bit of an inhibitor in driving these new business models. I think it will get fixed but it just isn't there at the moment, broadly speaking. I am sure there are many counter examples that say "Yes, it is", but broadly speaking what we are seeing is that it is relatively inefficient at the moment.

I am not going to go into these in any detail other than to say that there are already a number of slightly different business models in the contributor rights environment. It is all about the number of intermediaries and the business processes that those intermediaries undertake, whether it be aggregation or just on-sell or whatever. There are two sets of functions that the contributors are dealing with.

There is an issue around this that I want to highlight. What we have seen in the market, in clients locally but also clients around the world, is a tendency to get 'caught in the headlights at night' by questions around metadata models. We have seen a lot of businesses get stalled by an inordinately long debate about what metadata model to use before they then launch the business. We would argue, and what we have seen is, that people who just ignore that and get on with something have been more successful. Now

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whether that is just a process of the market, or whether it is to do with irrelevance of the metadata model, I think, is a little bit more arguable. But we are definitely seeing that as long as you've got some flexibility you want to go with the metadata model that is good enough and recognise you might have to change over time. If you try to get the perfect metadata model for your business model, you just won't get to market. So what we have seen across all media formats is to go with something that is good enough and get into the market.

Similarly, there are business models around the distributor rights area. Again, it is all to do with the degree of aggregation or the business functions that are along the way, and I am not going to go into this with any detail either except to re-emphasise that the micro billing and settlement process, again, is a bit of an inhibitor here.

This is more than about technology. I think this is really the point to take away from the whole of this. Even in the technology sense, it is a mixture of technical, legal and social norms (refer Slide Four). For example, we have had a lot of talk today about people digitising their CDs and putting them on their iPods, and that sort of thing. My reading of the law, and I am sure the lawyers will correct me if I am wrong here, is that this is actually illegal in Australia. It is not illegal in many other countries, but the fair use provisions in Australia are extremely restrictive. My understanding is that even things that we believe to be quite normal, such as transposing content or transcoding content, that we have already paid legitimately for, onto another device so that we can consume it in a different manner or a different mode, or in a different place, in Australia actually isn't legal. So there are legal implications about these different ways of consuming.

To summarise, DRM is not about technology, it is really about a collection of technology, legal, social, business models, business processes. All of those need to be in place to make it work. It is just one element of the solution. From a technology viewpoint, DRM is almost useless without digital asset management; and the digital asset management field, I think, has stalled. It is in existence in many parts of the industry and it has obviously been around in the broadcast industry for a long, long time but in a closed form that doesn't allow the content to be taken from the broadcast environment and

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leveraged into different business models. Most of the sensible thinking we have seen around the world on digital asset management has been in the printed media, in the text media space, and not in the rich media space. I think this is something where rich media has got a little bit of catching up to do.

DRM will not stop piracy. There has been a lot of debate about that during the day, but this is my belief. I have just finished re-reading a wonderful book by Simon Singh, called *The Code Book*, which is about the history of cryptography and cryptanalysis. What it shows is that throughout history, and it starts with the Greek and Roman ciphers and ends up with quantum cryptography, is that the code breakers have always been a little bit ahead or behind the cryptographers. It shows that every way we try to use, every technology we try to use, can be broken and probably will be broken. So none of this will stop piracy.

I agree with the comments that have been made earlier that making piracy relatively more difficult and making the business model very attractive is going to minimise the piracy. But I don't think there will be much out there that will actually stop piracy by people who are really determined to do it. There is only one cryptographic technique that, so far, is believed to be absolutely unbreakable, and that is something called quantum cryptography. It relies on quantum mechanics, and it is just nowhere near practical application. So there is very, very little prospect of uncrackable cryptography in the near future.

Finally, DRM has the potential to reshape a lot of commercial models. I think we have seen a lot of new business models in place. Some of them have been successes, some of them haven't. I think we will continue to see that over the next many, many years as people get out there and test models. That is because there is a lot of evidence to show that the more you test your business model the more you refine it, and the more you refine it the more successful it is.

So, I think it is, in a way, driving a degree of innovation into the media market, and I think that is a good thing.