

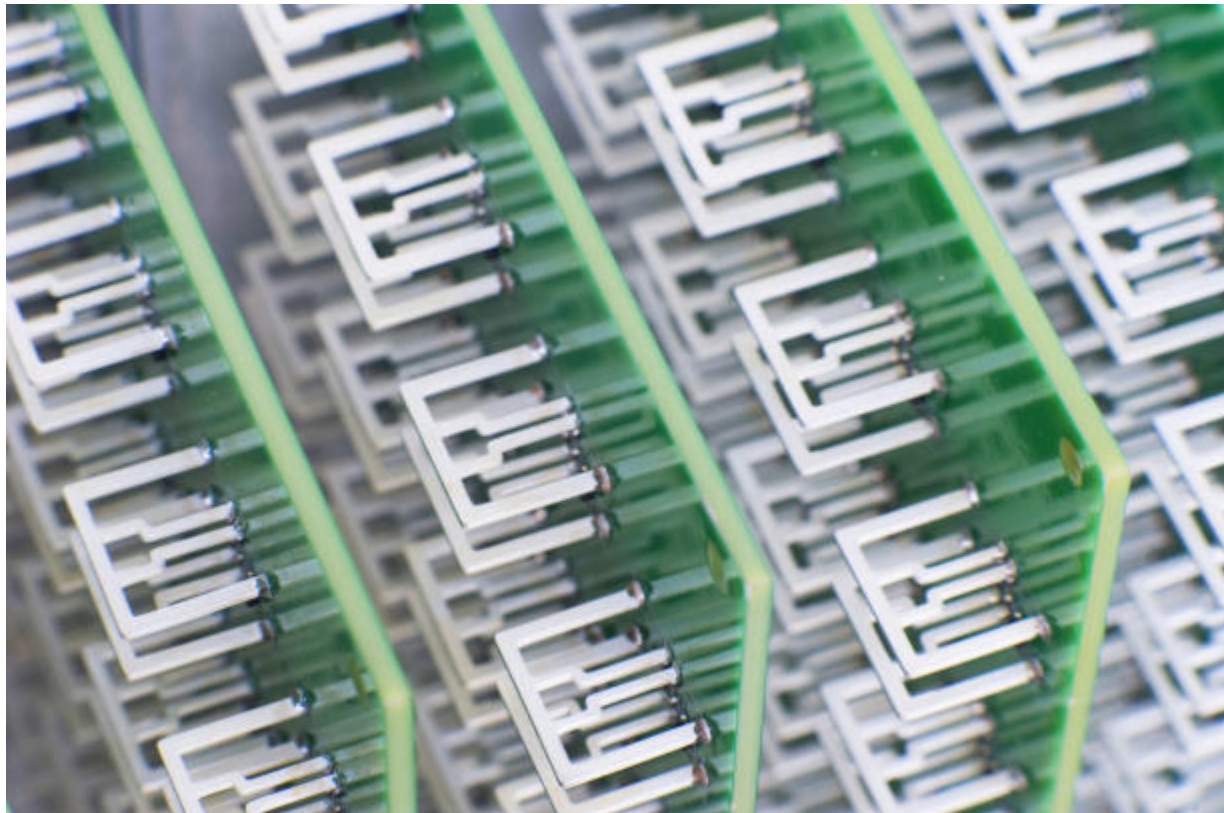
CNET News

# Broadcasters petition Supreme Court in Aereo fight

Over-the-air television networks rankled by Aereo's service are asking the US Supreme Court to weigh in, saying courts have drawn conflicting conclusions and the service threatens the broadcast industry.

by **Joan E. Solsman** | October 11, 2013 12:44 PM PDT

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Aereo's arrays of dime-sized antennae.

(Credit: Aereo)

Television broadcasters Friday petitioned the US Supreme Court to get involved in their

fight against Aereo, the online service that streams their over-the-air programming to its paying members.

Aereo, which is backed by IAC Chairman Barry Diller, **uses tiny individual antennas to let consumers watch live, local broadcasts on some Internet-connected devices and store shows in a cloud-based DVR. Television giants including Disney's ABC, CBS (the parent of CNET), Fox, and Comcast's NBCUniversal sued Aereo, alleging that the service violates their copyrights and that Aereo must pay them.**

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**In the petition Friday, the broadcasters asked the court to decide whether the performance of their copyrighted programming via Aereo is "public" and therefore prohibited by the copyright law, or if Aereo is engaged in tens of thousands of "private" performances to paying strangers, as the online company has argued successfully.**

The Supreme Court should review the case, the broadcasters argue in the petition, because courts outside the Second Circuit based in New York have been shutting down similar services, setting up court conflict. The petition also argued that the Second Circuit decision in Aereo's favor is rapidly and deeply harming the television industry.

"The decision below has far-reaching adverse consequences for the broadcast television industry, making the need for this Court's review urgent and acute," said the petition. Adding that "while conduct like Aereo's is being enjoined throughout the rest of the country, it is allowed to flourish in the largest national market."

"Inside the Second Circuit, technical detail trumps common sense," said the petition.

Aereo spokeswoman Virginia Lam said, "We will respond, as appropriate, in due course."

A Fox spokesman said the filing Friday underscores the company's resolve. "Make no mistake, Aereo is stealing our broadcast signal. As do so many businesses both large and small, broadcasters rely on enforcement of the law to receive fair value for the high quality news, sports and entertainment we create and in turn deliver to millions of Americans each day," he said.

NBC and CBS declined to comment, and ABC didn't immediately respond to a message.

All petitions to the Supreme Court have a long shot of being granted. Of the roughly 10,000 petitions received every year, the court grants and hears oral arguments for about 75 to 80, less than one percent.

The court tends to select cases that lower courts have ruled on in different ways or those that address issues of national importance.

Thus far, Aereo has largely come out ahead in two district and one circuit court battle, and all of the decisions have been rulings on injunctions, rather than any rulings after a main trial. In addition, the case that Aereo has relied on as precedent -- a 2008 Cablevision case over copyright and DVR technology -- was appealed to the Supreme Court too, and the court denied the petition. Those could work against broadcasters' chances of being granted a Supreme Court review.

However, broadcasters have been successful in shutting down a similar service run by a different company, FilmOn X, with injunctions in Los Angeles and D.C. courts. The Ninth Circuit, if it affirms the Los Angeles decision, could set up a conflicting circuit court decision that makes a Supreme Court hearing more likely.

Aereo has said in the past that there has been no legal discovery conducted that even confirms its own technology is akin to FilmOn X's.

In April, Aereo prevailed in the **Second Circuit Court of Appeals, which affirmed a New York-based district court's decision to deny a preliminary injunction motion** [[http://www.cnet.com/8301-1023\\_3-57577280-93/aereo-wins-big-one-in-streaming-case-against-tv-networks/](http://www.cnet.com/8301-1023_3-57577280-93/aereo-wins-big-one-in-streaming-case-against-tv-networks/)] from television networks that would have prevented Aereo from transmitting the broadcasts to its subscribers.

The networks followed up by requesting the case be reheard before a full panel of judges, **which was also denied in July by the majority** [[http://www.cnet.com/8301-1023\\_3-57593987-93/in-another-aereo-win-court-refuses-to-rehear-new-york-case/](http://www.cnet.com/8301-1023_3-57593987-93/in-another-aereo-win-court-refuses-to-rehear-new-york-case/)]. However, a dissenting opinion signed by two judges called Aereo a "sham."

Earlier this week, a judge in US District Court in Massachusetts **denied a preliminary injunction against Aereo sought by Hearst** **[http://www.cnet.com/8301-1023\_3-57606878-93/aereo-wins-battle-against-boston-tv-station-seeking-injunction/]** and its Boston broadcast TV station, WCVB.

Aereo also faces another suit filed in Utah. CBS and "My TV" affiliates owned by Sinclair Broadcast Group as well as a Fox station filed their complaint last week.

**Update, 1:11 p.m. PT:** *Adds details from the petition and Fox comment.*

**[http://www.cnet.com/profile/joan.solsman/]**



**sman [http://www.cnet.com/profile/joan.solsman/]**

a staff writer for CNET focused on digital media. She previously s Newswires and the Wall Street Journal. She bikes to get almost everywhere in New York City and has been doored only once.

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**[daddyjim3874 \[http://www.cnet.com/profile/daddyjim3874\]](http://www.cnet.com/profile/daddyjim3874)** Oct 13, 2013

This is really such a simple issue. I currently get my signal with a hi-def multi-directional antenna that I purchased at Lowe's for about \$50. I get great reception from the OTA channels. What's the difference whether I buy my own antenna or rent one from Aereo?

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**[JDubTrey \[http://www.cnet.com/profile/JDubTrey\]](http://www.cnet.com/profile/JDubTrey)** Oct 13, 2013

Semantically, what's the difference between "renting an antenna" and "streaming broadcast signals for a fee"? The engineering involved isn't all that complicated or innovative, and moreover, simply seeks to find a loophole to crawl through.

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**[Diplomacy42 \[http://www.cnet.com/profile/Diplomacy42\]](http://www.cnet.com/profile/Diplomacy42)** 8 hours ago

**@JDubTrey** [<http://www.cnet.com/profile/JDubTrey>] there is none, but the thing is that streaming content isn't illegal. rebroadcasting it is. Aereo doesn't do that. their consumers stream the original, unaltered signal, which is exactly the same as if you had an antenna on the roof.

which is why the broadcasters have already tried and lost this case twice.

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**Food doc** [<http://www.cnet.com/profile/Food+doc/>] Oct 13, 2013

Well, golly gee whiz! If Aereo is allow to function the broadcasters might lose money from rebroadcasting fees. Extend that logic and all forms of antennas from rooftop to rabbit ears will need to be outlawed also since they would be doing the same thing as Aereo and I'm quite sure that every antenna owner in the US doesn't pay a rebroadcast fee to the get those signals. Hey, what a great idea! Let's let the broadcasters charge a monthly service fee to every antenna owner in the US. Of course they'd have to provide a TV meter box so they could prove how much of their FREE, OTA signal we're using every month. IMO of the broadcasters should prevail then we'll need to cancel their licenses since they will have declared that they will no longer provide the free OTA service that the license requires.

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**JDubTrey** [<http://www.cnet.com/profile/JDubTrey>] Oct 13, 2013

Everyone isn't a target for litigation, whether you infringe or not.

Local stations don't even stream their own prime time shows, and it is certainly not because they don't know how (some do stream local news).

I'm a consumer like most of us on this board. I like innovation. However, common sense tells me that it's not right to re-package someone else's copyrighted content and sell it.

Just becuae it is free for the end user to consume, doesn't mean that anyone in between can do whatever the hell they want with it.



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**timinbovey** [<http://www.cnet.com/profile/timinbovey>] Oct 12, 2013

Anyone remember the days when the entire concept and success of OTA broadcasting was to sell advertising as your source of revenue? And to do this you did everything in your power -- quality programs, the best transmitters, the most power you could get, and campaigns in magazines, spots on the radio, etc to do everything you could possibly do to obtain as many viewers as possible? You wanted viewers so you could show to advertisers how many people they could reach with an ad on your station or network. Now, this doesn't matter. Aereo will bring them more watchers. They no longer care. Like most other industries this has changed. They don't give a crap how many people are watching, and they don't give a crap if they offer advertisers any value. They are only concerned about copyrights, controlling, and charging for, content. Similar to music. Quality music is out. Copyright control is in. That's because the absurd copyright laws that mean the holder of a copyright (usually not the actual author, BTW, but a publishing company, music label, studio, network, etc) has the rights to make money off a copyright basically forever, with this protected by Federal law. Life + 75 years + renewals. Notice how there's no innovation in this country anymore, unless it's software, music, programming, etc? That's because it's protected and guaranteed to be under your control basically forever. But if you patent something whether it's a new mousetrap or the cure for cancer, your patent is good for 20 years after which anyone can make it and make money. This is why there will never be a cure for cancer. Unless it can be done with copyrighted software or music. Invest your life and all your savings to invent something and patent it, and you probably won't live long enough to break even. Write a hit song (which honestly can be a complete piece of crap musically and technically) and you'll get paid forever, Then your family will get paid for 75 years after you die, and it may be renewed after that. Make a TV show that's broadcast free to every household in the nation repeatedly forever in reruns, and if ONE guy copies it on DVD you can sue him and he violates federal law, even though you can watch the SAME program FREE on the TV set. Either the revolt, or the end, is near.

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**inachu1** [<http://www.cnet.com/profile/inachu1>] Oct 12, 2013

Why is it most of the broadcasters signals suck while PBS is always strong?

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**onefussyone** [<http://www.cnet.com/profile/onefussyone>] Oct 12, 2013

"Make no mistake, Aereo is stealing our broadcast signal."

Er, you mean the signal anyone with an antennae can get? For free?

These companies should sue companies that sell antennas then, because they do the same thing as Aero, which is to ENABLE people to pick up their signal.

I think Aero should charge them (the broadcasters) a fee for disseminating their product.

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**daddyjim3874** [<http://www.cnet.com/profile/daddyjim3874>] Oct 13, 2013

[@onefussyone](#) [<http://www.cnet.com/profile/onefussyone>] or at least get some of the revenue from the advertisers

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**Shawn3B** [<http://www.cnet.com/profile/Shawn3B>] Oct 12, 2013

F the broadcasters that use these public resources (RF spectrum - the public airwaves). The airwaves are OURS, the people. We can take it back, or they can give it back. Their choice, they cannot have their cake and eat it too (I mean, they are now, but we shouldn't allow it).

Retransmission fees for the same is a joke also. Anything they put on that spectrum, if captured from that source, retransmission / replay, recording, should be unlimited, probably as long as one doesn't modify/alter the content, a cloud DVR or not, it should be fair use. It becomes public domain, as a complete work. The company can chose what to put on that

medium, and not put stuff on it they want to control via other means. Other companies would gladly take and use that spectrum, without the practices they are asking for.

On a related topic, bundling requirements are sort of BS too. Though I am not saying a private entity (public corporation or any proprietorship - anything non-government/public domain) be forced to sell single channels or be told what to do with their content, how to operate or conduct their business. I'd like to see more options out there, more competition (IP video, Internet transmissions) and then if the companies don't adjust their business model, people have options and can drop them, 'boycott' them if they so wish. Most people have no idea that something in the neighborhood of 90% of the most popular channels/content are owned by 6 parent companies/interests (not unlike food production - few parent companies, MANY 'brands' - consumers don't know the relation). Similar BS is when a channel allows free streaming online, but only if you subscribe to one of 5 or 6 major/national providers. Or even, HBO or Showtime NOT selling directly to consumers, let me subscribe online only. Just a bunch of contractual BS, exclusivity crap. This practice will piss people off (if it hasn't yet), and is ripe for Internet TV as bandwidth improves AND more independent content is produced... eg Netflix original content, etc. I foresee new companies forming that only transmit over the Internet... possibly don't even sell to cable or satellite, the key is they have quality content. I wonder if a major sport, like football or baseball, if the league stops the exclusive rights in contracts, and starts also selling their content directly... take out the middle man, but allow them, if they want. You could subscribe to your favorite teams "channel" - probably mostly a cloud library, but also live streaming. Think about it, IP offers so many options for enhancements of the experience, no broadcast or linear feed... custom advertising, even user control say of cameras - how they see the game, their prospective. Additional interactive experiences.

The simple truth is, as long as the big 5 or 6 content owners, of the content that people CURRENTLY want... as long as they fight this - they slow that progress. They know this, that's their approach. I suspect they're actually 'colluding' together in the sense of standing together on this practice. Not unlike baseball did with 'colored' players for a long time - it was a 'gentlemen's agreement' to not allow said behavior. The current system is a huge cash cow. They don't want to risk these known revenue streams, for something unknown. It'll take someone with content people want to provide these options, and start that movement (it's already started, far from mainstream just yet). If the current system did not exist (the current companies and business model - if somehow we just invented "TV" now), I cannot see how this would not be the model, we're just holding on to old ways.

Holding their turf for now is what they think is best business. Short term, can't argue that.

Long-term, I hope they are wrong, I hope it backfires on them. They are only encouraging others that are fed up to start using IP and reach an unlimited audience. Once one of the major studios/media companies falls into this model, I suspect the others will be forced to too .. the dominos will then fall. The next "Breaking Bad" or whatever series, if it capitalizes on this model, there is serious potential. netflix is helping, amazon instant/prime and redbox streaming too. MLB has a really cool start, with MLB.tv, but the issue is blackouts. It mostly ruins it, for the mass adoption. It doesn't allow most to 'cut the cord.' That is the key, enabling the masses to opt to cut the cord. It'll happen, given time.

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**Shawn3B** [<http://www.cnet.com/profile/Shawn3B>] Oct 12, 2013

hadn't seen this before... looks to be something I might get involved with...

<http://www.freepress.net/ownership/chart> [<http://www.freepress.net/ownership/chart>]

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**I\_am\_me234** [[http://www.cnet.com/profile/I\\_am\\_me234](http://www.cnet.com/profile/I_am_me234)] Oct 11, 2013

Or we could all just read a book. I feel sorry for the job loss for these companies though.

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**Terri N. Peate** [<http://www.cnet.com/profile/Terri+N.+Peate>] Oct 11, 2013

A lot of commenters here seem supremely confident that, no matter what happens, the networks will keep broadcasting free OTA TV. Right now, broadcasters get revenue from cable companies for redistributing their content. What if the cable companies were to make

the same argument as Aereo? You're just renting the cables and DVR? That would be a potentially crippling revenue loss. One way to deal with it would be to quit broadcasting content and sell it only to cable providers, who would be thrilled to kill off OTA TV and would pay higher fees for the content. They would stick their customers for this, as they always do.

As for the people who hate the networks, nobody's making them watch them now. If they want to pay for all the content they get, they can do so. I just hope the future isn't one devoid of free OTA TV. Aereo isn't doing it any favors with this latest scheme to take a free resource and monetize it.

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**aka\_tripleB** [[http://www.cnet.com/profile/aka\\_tripleB](http://www.cnet.com/profile/aka_tripleB)] Oct 12, 2013

**@Terri N. Peate** [<http://www.cnet.com/profile/Terri+N.+Peate>]

Yes, because broadcasters are going to shoot themselves in the foot and lose the negotiating stance they have of being able to tell their viewers they can always buy an antenna during contract negotiations with cable/satellite companies when the channels go dark. AND they're going to cut off their nose to spite their face, because they want to know exactly where their viewers are sitting while watching their programming? The broadcaster want to be able to legally tell you how you get to view their programming, but if they end their broadcasts, they're going to lose most, if not all their, viewers. People want choices, and they'll find them despite whatever happens in court. This case is a lose/lose scenario for them; they need to either work with Aereo or offer a similar service that doesn't violate anti-trust law.

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**Terri N. Peate** [<http://www.cnet.com/profile/Terri+N.+Peate>] Oct 12, 2013

**@aka\_tripleB** [[http://www.cnet.com/profile/aka\\_tripleB](http://www.cnet.com/profile/aka_tripleB)] **@Terri N. Peate**

**[<http://www.cnet.com/profile/Terri+N.+Peate>]** Do your really think if broadcasters stop

transmitting OTA, that people will just stop watching TV? Or will they knuckle under and buy cable, bundled according to what cable chooses to offer at what they wish to charge? Cable has long dreamed of killing off OTA TV, and they have been instrumental in killing off non-subscription standalone OTA DVR devices. When a channel or program such as Universal Sports or Al Jazeera English goes to cable, blocking streaming or ending OTA broadcast is always part of the deal.

And don't believe the guff about "1950s technology." Digital OTA offers a gorgeous HD sound and picture. Cable companies often sample this signal down to save bandwidth. I don't think there's much question about who is the most anti-competitive.

Sure, there would be an outcry at ending or reducing OTA TV, but right now that's only about 7% of households, and when a minority of a minority can control Congress, anything is possible.

/ like [] reply []

**Terri N. Peate** [<http://www.cnet.com/profile/Terri+N.+Peate>] Oct 12, 2013

**@aka tripleB** [[http://www.cnet.com/profile/aka\\_tripleB](http://www.cnet.com/profile/aka_tripleB)] **@Terri N. Peate**

[<http://www.cnet.com/profile/Terri+N.+Peate>] I'm sure those people who give up TV will all feel much better with all the fresh air and exercise. I'm afraid the rest of that 7% will wind up paying somebody for all their content. It could also happen piecemeal. All the big-ticket production programming could move to cable or buy-to-view, with only those religious and foreign language channels and the channels of old movies and nostalgia left broadcasting locally.

I own the hardware and software of my computer-based OTA system, and don't pay anybody a fee to use it. It is far superior to the standalone DVRs of the past. I don't pay for the signal. I get about 30 channels, only a few of which I watch. The content produced for HD is amazing, and better than the signal my neighbors on cable are paying a premium for.

I'd hate for that to go away.

/ like ☐ reply ☐

**aka\_tripleB** [[http://www.cnet.com/profile/aka\\_tripleB](http://www.cnet.com/profile/aka_tripleB)] Oct 12, 2013

**@Terri N. Peate** [<http://www.cnet.com/profile/Terri+N.+Peate>]

Actually, yes, there will be a large number of people who will give up on traditional (both OTA and paid) television if broadcasters try to make it harder to get [previously] "free" content. It's not just the cost of cable or the headache of getting the right package, but also what broadcasters want to do will literally say that what viewers want to do is illegal.

Do you really think there will be that many people that would put up with all three of those things? Sure, there will almost certainly be a few sadomasochists that will put of this this, but I'm certain most won't put up with being called a criminal by people they were doing business with legally, when they still have to put up with the other two issue still.

/ like ☐ reply ☐

**GeorgeKafantaris** [<http://www.cnet.com/profile/GeorgeKafantaris>] Oct 11, 2013

The broadcasters went to the Supreme Court because they lost twice in the lower federal courts. But this doesn't mean the Court will agree to hear their case -- and it shouldn't. Aereo has a limited market share; it makes no sense now to stifle a technology before it takes hold. Besides, Aereo offers some relief against monopolies we had to deal with for years.

/ 1like ☐ reply ☐

**edge\_pro\_gel** [[http://www.cnet.com/profile/edge\\_pro\\_gel](http://www.cnet.com/profile/edge_pro_gel)] Oct 12, 2013

Duh? Way to overstate the obvious about the Supreme Court. It makes very much sense to stifle technology before it takes hold. Aereo offers no relief against monopolies.

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**[bjbj1279](http://www.cnet.com/profile/bjbj1279) [<http://www.cnet.com/profile/bjbj1279>] Oct 11, 2013**

The thing that bothers me most about this is how the networks claim Aereo is "stealing" their signal, when they are broadcasting it to the general public for free. What Aereo is really doing is providing a service that actually increases the reach of the networks to some that don't have a reliable signal and providing DVR services that actually help people to see their shows that they would otherwise be missing. I realize in some instances they provide on demand access for some of their shows, but they aren't providing a way to access the actual network live online for those who can't pick up a reliable signal. They aren't providing a DVR for all shows, just nationally televised with some restrictions (CBS doesn't stream Big Bang Theory online for example). The networks are essentially trying to kill a business that provides services that they refuse to provide. I think we all have to agree that a win for Aereo is a win for the public. Either we get local TV online for a small monthly fee from Aereo, or the networks should provide something online as there are legitimate reasons to have online access, which would increase the number of viewers the networks can reach.

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**[edge\\_pro\\_gel](http://www.cnet.com/profile/edge_pro_gel) [[http://www.cnet.com/profile/edge\\_pro\\_gel](http://www.cnet.com/profile/edge_pro_gel)] Oct 12, 2013**

Unless you are deaf, hearing impaired or rely on separate audio programming, descriptive audio services or Closed Captioning. Aereo exists to make money off of commercial broadcast signals with the cheapest, most inconsiderate way.

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**[abcd9009](http://www.cnet.com/profile/abcd9009) [<http://www.cnet.com/profile/abcd9009>] Oct 11, 2013**



**@bjbj1279** [<http://www.cnet.com/profile/bbj1279>] I agree with your point but from your last statement about networks providing us online service just to they would increase their viewers - I don't think you understand the networks' concerns.

Truly speaking the networks don't really care who watches and how they watch their show. However, when it comes to Ad dollars - according to Nielsen Ratings it does make a difference in Ad revenue depending on who's watching (age demo) and how do you watch the show (TV, DVR, or online). The bottomline is it all comes down to Ad dollars. Even if the networks increase their viewers through online subscription the total Ad revenue will suffer because online Ads are much cheaper than TV ads and that is even after adding revenue from that little subscription you mentioned - TV revenue is higher.

And this is the #1 reason why you don't see Apple TV or Google TV is not successful. Content owners make more money on TV than any other medium.

/ **2like** [**]****reply** [**]**

**Shawn3B** [<http://www.cnet.com/profile/Shawn3B>] Oct 12, 2013

**@abcd9009** [<http://www.cnet.com/profile/abcd9009>] **@bjbj1279** [<http://www.cnet.com/profile/bbj1279>] I say as long as a broadcaster uses public airwaves (RF spectrum), whatever they broadcast over that medium is fair game. ZERO retransmission fees or rights.

Maybe with the rule that the content cannot be altered, specifically, commercials must remain intact, etc. As far as public DVR, I say fair use... for any content put on public airwaves. I am no lawyer, so I am sure this is all legally flawed.

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**JustmyOp** [<http://www.cnet.com/profile/JustmyOp>] Oct 11, 2013

"is rapidly and deeply harming the television industry"

Simple answer

"is rapidly and deeply harming the television industries pockets"

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**TheAdventurer** [<http://www.cnet.com/profile/TheAdventurer>] Oct 11, 2013

Industry should be threatened in the name of progress. That's how capitalism works. Keep moving forward.

/ [1 like](#) [\[\]reply \[\]](#)

**edge\_pro\_gel** [[http://www.cnet.com/profile/edge\\_pro\\_gel](http://www.cnet.com/profile/edge_pro_gel)] Oct 12, 2013

Aereo isn't progress, when it is limited to 720P video.

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**TheAdventurer** [<http://www.cnet.com/profile/TheAdventurer>] Oct 11, 2013

Eat it, CBS

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**Casair** [<http://www.cnet.com/profile/Casair>] Oct 11, 2013

I'm not sure I trust the courts. They are just as bought and paid for as the elected officials are. And you don't get on the SC w/o owing a ton of people. Or a few people a ton.

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**regulator1956** [<http://www.cnet.com/profile/regulator1956>] Oct 12, 2013

**@Casair** [<http://www.cnet.com/profile/Casair>] OK, so what's your plan for maintaining fairness?

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**Diplomacy42** [<http://www.cnet.com/profile/Diplomacy42>] Oct 11, 2013

In the petition Friday, the broadcasters asked the court to decide whether the performance of their copyrighted programming via Aereo is "public" and therefore prohibited by the copyright law, or if Aereo is engaged in tens of thousands of "private" performances to paying strangers, as the online company has argued successfully.

This piece of the article is inaccurate and confusing. Public/private is not the focus of the debate. OTA broadcasts are Public. Home viewing is private. the debate centers around whether Aereo is rebroadcasting the signal, or whether the user of Aereo is contracting for equipment to be placed and maintained at one of Aereo's sites. Because Aereo dedicates a DVR and antenna to each subscriber(and no broadcast equipment), they maintain that they do not qualify as a broadcaster in their own right. networks on the other hand look at them like netflix or hulu. Monthly fee charged, copyrighted material streamed via the internet to your computer, your phone, your laptop, your playstation. they say that the "antenna thing" is incidental to Aereo's business model and a distraction to the issue at hand.

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**majhlex** [<http://www.cnet.com/profile/majhlex>] Oct 11, 2013

Once that cable is detached from our homes there is a layer of broadcasting bureaucracy that's out billions of dollars.

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**joejo1431** [<http://www.cnet.com/profile/joejo1431>] Oct 11, 2013

I would love to the the broadcasters go belly up.

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**Diplomacy42** [<http://www.cnet.com/profile/Diplomacy42>] Oct 11, 2013

[@joejo1431](#) [<http://www.cnet.com/profile/joejo1431>] if they do that, aereo would go belly up as well. they would have nothing to relay.

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**edge\_pro\_gel** [[http://www.cnet.com/profile/edge\\_pro\\_gel](http://www.cnet.com/profile/edge_pro_gel)] Oct 12, 2013

And OTA broadcasters are dying a slow painful death as it is.

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**daddyjim3874** [<http://www.cnet.com/profile/daddyjim3874>] Oct 13, 2013

[@edge\\_pro\\_gel](#) [[http://www.cnet.com/profile/edge\\_pro\\_gel](http://www.cnet.com/profile/edge_pro_gel)] Really now? When I have to watch 6 commercials each time they go to commercial break, and in a 30 minute show a third of it is commercials, I hardly think they are going broke.

/ like [] reply []

**Varsis** [<http://www.cnet.com/profile/Varsis>] Oct 11, 2013

Maybe I'm misunderstanding how the technology works here, but how is this different than recording broadcast TV via your programmable VCR/DVR?

/ like [] reply []

**Copyrighters** [<http://www.cnet.com/profile/Copyrighters>] Oct 11, 2013

**@Varsis** [<http://www.cnet.com/profile/Varsis>] You're not misunderstanding it. Recording broadcast TV is also an act of copyright infringement, but the networks don't care about it because most people who record are paying subscribers who aren't going to sell the recorded TV content.

/ like [] reply []

**Diplomacy42** [<http://www.cnet.com/profile/Diplomacy42>] Oct 11, 2013

**@Copyrighters** [<http://www.cnet.com/profile/Copyrighters>] **@Varsis** [<http://www.cnet.com/profile/Varsis>] actually, that isn't true. the supreme court ruled the exact opposite. you are allowed to make recordings of broadcasts (and cable) for private use. Thereby making VCRs and later DVRs legal.

/ 2like [] reply []

**JustmyOp** [<http://www.cnet.com/profile/JustmyOp>] Oct 11, 2013

**@Diplomacy42** [<http://www.cnet.com/profile/Diplomacy42>]

The Dish Network Hopper for bypassing commercials is also legal.

/ **1like** **[ ]reply** **[ ]**

**Diplomacy42** [<http://www.cnet.com/profile/Diplomacy42>] Oct 11, 2013

@Varsis Because the antenna is off-site. That is really the only difference. Rather than receiving the broadcast from your set top or your roof, you receive it from an antenna downtown, a few blocks from the tv station.

Aside from that, there is just an uneaten pie, and broadcasters (and mostly the big networks that own them) want in. people are paying a 3rd party that isn't affiliated with the broadcaster or the network, and that's not fair because they aren't "doing" anything except renting us a DVR.

Of course Aereo makes a good counter argument: "we aren't doing anything except renting them a DVR"

/ **like** **[ ]reply** **[ ]**

**dkmcp** [<http://www.cnet.com/profile/dkmcp>] Oct 11, 2013

This really puts the local station and it's networks under an extreme bargaining disadvantage by having Aereo relay the signal without charge while the cable/satellite companies pay a fee. If Aereo prevails in this, the cable/satellite companies will demand a rewriting of their contracts and seriously affect the income stream of the OTA group.

I would think the work around for this would be for Aereo to make all it's users owners by selling each subscriber a share for \$5 and then a fee similar to an HOA of \$8/month.

I would really like to see Aereo prevail here and expand to more cities so I could add them to my Amazon, Hulu+ and Netflix subscriptions.

/ **2like** **[ ]reply** **[ ]**

**Diplomacy42 [http://www.cnet.com/profile/Diplomacy42] Oct 11, 2013**

**@dkmcp [http://www.cnet.com/profile/dkmcp]** your plan doesn't really solve the problem or change anything, except giving aereo more headaches. with the rental model, the DVRs and the Antennae belong to aereo. If they were to lose the case, I could see them going this route, but so far they have been winning, so I don't know why this is necessary.

/ like [ ]reply [ ]

**sfbiker [http://www.cnet.com/profile/sfbiker] Oct 11, 2013**

**@dkmcp [http://www.cnet.com/profile/dkmcp]** I think that would be a good outcome, I've never understood why cable companies should pay a broadcaster for expanding the viewership of the broadcaster. The broadcaster is putting his signal out there for anyone that has a receiver, so should be happy that the cable company is giving them thousands of additional viewers who may not have otherwise received the OTA signal.

I understand geographical concerns, the New York broadcaster is not helped when viewers in San Francisco watch his NYC targeted ads, but as long as Aereo can assure that the users are in the right geographical area, I don't see what the problem is.

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**EducatedPanther [http://www.cnet.com/profile/EducatedPanther] Oct 11, 2013**

We wouldn't even be in this situation if the networks would innovate instead of squelch innovation. In reality, this is expanding their broadcast depth, as there are a lot of people who can't get ota signals well...The networks already have the signal, all they would need to do (I use "all" loosely, I understand it would be a big technical undertaking) is create a system that you can pay \$x/month for the big 4 or 5 OTa networks to be able to view them over the internet.



Aereo would disappear in a flash, I'm sure.

/ **1like** **[ ]reply** **[ ]**

**Diplomacy42** [<http://www.cnet.com/profile/Diplomacy42>] Oct 11, 2013

**@EducatedPanther** [<http://www.cnet.com/profile/EducatedPanther>] 4-5? most metro areas have between 8-22 broadcast networks within range of your antenna. some of them suck, but...

/ **like** **[ ]reply** **[ ]**

**EducatedPanther** [<http://www.cnet.com/profile/EducatedPanther>] Oct 11, 2013

**@Diplomacy42** [<http://www.cnet.com/profile/Diplomacy42>] **@EducatedPanther** [<http://www.cnet.com/profile/EducatedPanther>] True... but the big ones are what most people would care about (ABC, CBS, NBC, Fox, PBS, CW, etc).

/ **like** **[ ]reply** **[ ]**

**mypennythoughts** [<http://www.cnet.com/profile/mypennythoughts>] Oct 11, 2013

Any network who has a problem with Aereo should just give up their spectrum rights and stick with cable TV. As part of the broadcast's deal with the FCC, they got free spectrum as long as their programming was free. The broadcaster already get paid by the advertisers, no need for them to double dip into the cash pot. Obviously they can make a competing service themselves, but have chosen not to.

/ 7like []reply []

**EducatedPanther** [<http://www.cnet.com/profile/EducatedPanther>] Oct 11, 2013

**@mypennythoughts** [<http://www.cnet.com/profile/mypennythoughts>] my thoughts exactly. Aereo would go poof pretty quickly... since the networks already have the stream, all they would need to do is all go in on a similar internet service. I'm sure the infrastructure is already there to do it.

/ like []reply []

**AndreiBilderburger** [<http://www.cnet.com/profile/AndreiBilderburger>] Oct 11, 2013

While it is hard to be sure given the bad reporting, it looks like the lawyers are busy throwing away another slam dunk case. Since Aereo provides DVR services on machines it owns, it violates copyright as a matter of law and an injunction should be automatic.

To the extent people have an antenna one place and use the internet to view the received signal somewhere else, they are not violating copyright and are fine. However any recording has to be done by them, not as part of some third party's money making plans. Any signal watched or recorded has to originate with an antenna the viewer owns.

/ 1like []reply []

**Shawn3B** [<http://www.cnet.com/profile/Shawn3B>] Oct 12, 2013

**@AndreiBilderburger** [<http://www.cnet.com/profile/AndreiBilderburger>] I think the law is flawed as it is... I say F these broadcasters, and we take back our public resource of their RF spectrum. As long as they use the public airwaves, anyone should be able to re-transmit the signal without any concern. I could see an argument about modification of the content, such as removing or altering commercials, etc. The whole retransmission fees that cable has to pay to these channels is BS, assuming they retain the spectrum. Give that back, and do whatever you want regarding the distribution of your content. The whole entertainment

industry is very corrupted, flawed. A very old model that needs to be undone, similar to how telco was deregulated, and the industry has very strongly moved to IP.

/ like [ ]reply [ ]

**Pappawtom** [<http://www.cnet.com/profile/Pappawtom>] Oct 12, 2013

**@AndreiBilderburger** [<http://www.cnet.com/profile/AndreiBilderburger>] What about those people who rent a tv, vcr, dvd, etc, to own. They don't own it until it is paid off. Would they be violating the law according to what you are saying about Aereo renting their Dvr.

/ 1like [ ]reply [ ]

**Casair** [<http://www.cnet.com/profile/Casair>] Oct 11, 2013

**@AndreiBilderburger** [<http://www.cnet.com/profile/AndreiBilderburger>]

We don't own the DVRs now. The cable companies and Satellites companies do. Sure we could set up our own but 99.9% of us don't.

/ like [ ]reply [ ]

**EducatedPanther** [<http://www.cnet.com/profile/EducatedPanther>] Oct 11, 2013

**@AndreiBilderburger** [<http://www.cnet.com/profile/AndreiBilderburger>] I think Jerry has a valid point... it's really no different than hitting record on your dvr, unless they automatically record the tv then let you browse through the last, say, x days of content...that could be problematic, but if it only records when someone tells it to... I don't see that being a legal problem.

/ **3like** **[ ]reply** **[ ]**

**JerryVandesic** **[http://www.cnet.com/profile/JerryVandesic]** **Oct 11, 2013**

**@AndreiBilderburger** **[http://www.cnet.com/profile/AndreiBilderburger]** I thought the recording was done at the request of the consumer rather than Aereo. A remote DVR shouldn't be a problem.

/ **2like** **[ ]reply** **[ ]**

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