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Ethical Piracy in Today's World

In today's world the time of physical media has long passed. Digital distribution has become the main method for purchasing almost everything nowadays, from movies to music, video games to even books. Most people no longer walk into a store to purchase a disc they can play on a compatible device, instead opting for the simpler purchase method of just a few clicks on whatever internet connected device they have. Distributing products digitally of course allows for people to obtain them without paying, in other words pirating. Legal and ethical concerns over piracy have always been prevalent, with the default negative view of it being illegal and unethical. However, there are reasons why piracy should be viewed differently in today's world and in the future. Companies distribute products on websites or digital storefronts, and usually control access to them. There have been instances in the past of people losing access to their purchased products, or products being available for purchase for a limited time. In addition, there are also anti-piracy measures or forced online connections that are often put onto products like video games, to deny or delay people's ability to acquire them without purchase. The effects of these business practices create a world where digital piracy can no longer be considered unethical, as companies continue to hinder consumers' control of their purchases and negatively impact our ability to preserve media.

The control that consumers have over digital purchases has diminished to an unreasonable extent. Companies like Amazon offer movies to be purchased digitally on their website, via the Amazon Prime video service. People can choose to buy or rent usually, with buying being more expensive. The usual assumption would be that buying the movie allows

people to retain the ability to watch it indefinitely, however this is not the case. Peterson (2020) quotes a point made by Amazon concerning the Prime Video terms of use, “These Terms of Use expressly state that purchasers obtain a limited license to view video content and the purchased content may become unavailable due to provider license restriction or other reasons.” The point of this carefully phrased statement is that people only purchase the ability to view content on Prime Video, and not to own it. This is of course a far cry from purchasing a disc or having access to a file that may be played indefinitely. While this can still be considered some form of “ownership” in the sense that consumers can own the right to view their Prime Video content whenever they want, provided it still exists on the service, it is not the same as owning a physical copy. The ability for companies to revoke access like this to something purchased is clearly a way for companies to retain control over what consumers can do with their products. If companies are allowed to manipulate consumers in this way, there’s no telling how far they can go in the future by continuing to set new standards. When people buy something, they should be entitled access to their purchases if they are still usable on the devices the person has, be it through making their own backup of it or being provided access despite it being delisted from a service. The right to retain access to digital media that was purchased is something that should be upheld. There is a worse case than just buying a license like this though, where there is no ownership whatsoever.

Streaming services are an alternative to purchasing content and eliminate the possibility of any form of consumer ownership of content. A streaming service typically offers a large library of content viewable at any time for a monthly fee. It differs from purchasing content on Prime Video, where the user doesn’t purchase a license to view something they chose at any time. Instead, these services license content from the production companies, usually for a limited

time. In this case consumers can similarly lose access to content that they may have purchased the service for in the first place, like Prime Video. Salazar (2022) shows us a recent instance where a large amount of shows were delisted from streaming service HBO Max, the main reason being for tax breaks. So, these companies who sell consumers their service based on certain shows or movies being available end up revoking access so that the company can have lower taxes. Clearly this is an example of the greed of big companies, of which they can continue to get away with as long as these instances are not taken seriously. They lure people in with the promise of access to certain shows or movies but are very easily able to remove access to any media on their platform. The increasing prevalence of streaming services can eventually lead us to a world where these services are the standard, which eliminates the possibility of consumers having ownership over media they purchase at all. The rise of streaming services also indicates how the subscription-based model will eventually become the standard for most businesses.

The rise of subscription business models will eventually lead to a standard where people do not have control over any of their purchases. Subscription models are in general, not great for consumers, as they continue the trend of denying consumers ownership of their purchases. While of course people know what they're getting into when they subscribe, and most people who subscribe to Netflix for example don't care about owning some movies, the harm can be clearly seen if we look closer at how these services function. Bensinger (2021) illustrates this point, calling these subscription services "manipulation machines." He describes how it's easy enough with just one click to subscribe to these services, but often trying to unsubscribe becomes a task equivalent to navigating a labyrinth. They use multiple opt out screens and display messages containing double negatives to confuse people into not successfully unsubscribing. This practice itself is unethical. It relies on the fact that most people can either be tricked into continuing to

pay for something they don't want. Allowing these services to not only disguise lack of ownership of media as a good thing, but even keep a grip on their customers using underhanded tactics like this sets a bad standard for us. The harm of subscription models can extend past these unethical practices, with the lack of ownership essentially forcing people to pirate based on lack of availability.

The ability for people in regions which are locked out of purchasing products to pirate their desired product is a positive. Region locking is a common practice in the world of digital media distribution and even physical distribution. Be it for licensing reasons or just a lack of effort in providing the service to other regions, there's usually at least one place that a service or product isn't available in. A recent instance of region locking that proved to be harmful involved adobe products no longer being available in Venezuela. Adobe offers a service called Adobe Creative Cloud, which is a subscription service for Photoshop and Premiere Pro. Access to Adobe products in Venezuela ended up being revoked by an executive order in 2019, where Adobe was forbidden from doing business with people in Venezuela (Sood, 2020). Despite people paying for this service, they ended up losing access to it, because they did not own it. So, the only way to gain access to these services that people were using before was to pirate them. This is a typical example of how piracy can be fine, Sood (2020) also mentions this point that Gabe Newell cofounder of Valve made, "We think there is a fundamental misconception about piracy. Piracy is almost always a service problem and not a pricing problem...". When people want to purchase something but have no option to, it stands to reason that the company loses nothing if their product is pirated by them. The other option would maybe be to use a virtual private network to purchase it, but this could be argued to be illegal in its own way. This problem

of maintaining access to subscription-based content is equivalent to the general problem of retaining access to purchased digital media.

The problems behind delisting and limited time access to media that takes advantage of fear of missing out has negatively impacted media preservation. Here is another example of a somewhat manipulative practice that companies use to push consumers to buy their products quickly. Fear of missing out (FOMO) is the idea that people are a lot more likely to buy or engage with something if they feel like they missed out on something good. FOMO is something that's taken advantage of when companies delist media or only offer limited time access. Roth (2023) explains an extremely recent case of this, in which Nintendo shuts down their online shop for their now unsupported systems, the Wii-U and 3ds. There was said to be around 1000 digital-only games on the service, which are gone now. The main reason that Nintendo shut down the shop is that it was effectively replaced by the Nintendo Switch eshop. The Nintendo Switch eshop offers a lot of what the prior shop offered too, but the catch is most of the content is now a subscription-based service. So not only were a huge number of games delisted and unavailable for purchase ever again, which takes advantage of consumers FOMO, they began offering some of the same games previously offered but now people must subscribe instead of just buying. This combination of delisting, limited access and a switch to subscriptions shows us not only how consumers are taken advantage of, but how media can often be lost if it's only legal way to acquire it is through a digital storefront.

Media preservation is harmed by digital storefronts becoming the dominant form of distribution. To begin with, preservation of physical media has always been a concern. Discs in particular can "decay" leaving spots on the read side that are unrepairable. This damage can render these discs unusable (Smith, 2017). So, it is necessary that people be able to make

backups of physical media to preserve their content for the future. The U.S. Copyright Office (n.d.) tells us that it is not legal to make backups of content on discs like this, as it was previously one way that people would pirate and distribute copies to each other. It also tells us that it isn't even legal to make copies of material that has been downloaded either. Of course, the government doesn't care if people make copies of things themselves for personal use, the only issue comes from distributing it, particularly if a profit is being made. In recent years there has been much more concern over the piracy of videogames than over movies, most likely because of digital storefronts and subscription services. However, video games are still split between physical and digital stores. While physical piracy of videogames has dropped considerably, digital piracy of video games has massively increased, for reasons directly related to preventing piracy itself in fact.

The use of anti-piracy measures for video games negatively impacts consumer's experience and our ability to preserve video games. As video games began to be sold on computers now, it of course became incredibly easy to create and distribute free versions of games over the internet. To combat this, companies have started putting Digital Rights Management (DRM) tools into their games. An example of this is Denuvo, which is an infamous anti-tamper technology that has been provably shown to be software bloat when tacked onto games. Denuvo takes up extra resources which negatively impacts game performance and inflates game size. In addition to this, Denuvo has also acknowledged that the purpose of their DRM is to delay piracy, not entirely stop it (Sood, 2020). The usage of DRM is one factor that ends up encouraging piracy in fact. Sood (2020) also cites DRM as one reason why people who are ready and willing to support official releases of something will end up straying towards the pirated version. People are more willing to pirate something despite wanting to purchase a game

because of DRM, which entirely defeats the purpose of DRM in the first place. It inevitably fails and inevitably ruins the public image of the game whenever it's revealed that the game includes it. Another form of DRM that has popped up recently involves connecting to a server whenever playing a game. This presents a huge problem for being able to play the game in the future, as servers inevitably will go down when companies decide to stop support. Game preservation in general has begun to suffer more because of this, both modern and retro games. For retro games there is the option of emulation, which presents a whole other aspect of the game piracy conversation.

The preservation of games has been aided in recent years by the advancement in emulation technology. There are many games that are unavailable for purchase in stores anymore. The majority of which are on consoles or even operating systems that are not easily acquired anymore. The rise of emulation allows us to access these games for free, but emulation is often viewed as the equivalent to piracy. Denuvo even ended up releasing a book recently about why emulation is harmful for developers (Galekovic, 2023). The reality is that emulation is probably the most positive example of piracy that doesn't really harm anyone. There are some examples of companies nowadays that do offer their old catalogs, Nintendo's subscription service for example, but the reality is that the number of titles offered is miniscule and, doesn't belong to the people who pay for it. So, emulation is the only way to keep these old titles around in a playable format, and it succeeds at doing something that the big companies themselves don't seem to really care about.

While piracy has many benefits for consumers, there are also many cases where it will obviously harm the creators of media. There are of course negative aspects to people pirating media. There are many people who would much rather just get everything they want for free

rather than pay for it. This includes downloading movies, music, games, etc. A game related example happened several years ago, the release of the game Conan Exiles saw the developers suffering from the fact that the game accidentally released without DRM active. People were very quick to immediately jump to uploading the game that was free for anyone to play, as there was no way to check that the person playing it had purchased it. Even worse was the fact that even after the DRM was included again, people with pirated copies could still play the game just like normal (“Conan exiles piracy increases after Dev accidentally removes Denuvo”, 2017). The impact on sales mainly falls onto the developers’ shoulders. Higher ups at companies who see low sales of something are likely to lay off developers or shutdown studios for an underperforming game. This of course extends further to things like movies, where the performance of the film hinges on whether it can recover and then exceed the cost of production. Piracy is not free from problems as it can have negative effects on people who don’t deserve to suffer the consequences of course, but in the end it all circles back to the business practices put into place by companies.

Piracy has become a near necessity in today’s world because of harmful business practices that will eventually end up harming our ability to have meaningful control of our purchases and prevent media preservation efforts. The standard business practices of big companies are all based around taking advantage of consumers and gaining the most benefit from it. Subscription based models are the prime examples of this, as they serve to replace the traditional model of just purchasing a product and owning it. This extends from merely media like tv shows or books, to essential tools like software. Companies providing limited access to media hurts media preservation, which has long been something that we’ve struggled with in general. In the end all these problems occur because of companies worrying that people will not

buy things if they can always get them for free. This is not always true as piracy has often been seen to impact the people who wish to support the business. In the end the efforts to combat piracy circles back around to causing it. On the side supporting piracy we can see the paranoia around losing control of what we purchase, while on the side against we see paranoia about businesses failing because of piracy. This is a complex issue that can't be solved overnight, as companies are not going to easily stop these business practices because people who will take advantage of piracy always exist. In the end the only way to fix these issues is to establish an acceptable ground where we acknowledge that there will always be people who pirate unethically, while supporting the people who are willing to support businesses even with the option to pirate.

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