

So rather than saying more about why Youtube/Gootube is living off of copyright infringement, I thought it would be an interesting exercise to try to answer How to Youtube Legally, and who, if anyone would be able to pull it off.

The answer lies not in who can pull off licensing deals with content providers, but who already has licenses in place with the content providers. Who is already paying them big bucks and can create a win win scenario for themselves and rightsholders.

The answer as it turns out is pretty simple, and not something "Netizens" will want to hear.

Comcast, Charter, TimeWarnerCable, Cox, Insight, MediaCom, Cablevision, basically any cable company, and outside the cable companies, the telcos that offer TV service, and finally the Satellite Companies, DirecTV and Dish Networks, all could pull off a legal version of Youtube.

These are the companies that are paying billions of dollars in aggregate to the cable networks already. The cable networks of course are paying the content owners who pay the downstream rightsholders. Whats more, they all already have in place licenses to promote the programming they are distributing within pre defined limits. So if Comcast or Dish Network wants to promote the Daily Show on Comedy Central in a commercial, or on their websites, they already have permission to do so with limited video rights.

In addition, most of the above already are Service Providers in the defined sense of the word. They offer broadband access to their customers on their own, or in partnership with others. The fact that they have broadband customers and pay content owners huge amounts of money gives them the opportunity to do any or both of the following.

#### 1. Youtube Clone.

They all are working out deals with content providers to be able to stream or offer VOD/TV, it wouldnt take much at all to enhance their deals and ask for the ability to offer flash based video of user uploaded clips, with limitations in length and encoding quality. Limit the clips to say 5 minutes, with an option to the rightsholder to take down anything they dont want made available on the site. Tracking the length of a flash video is right there in the meta data, so their flash transcoder could easily shut off anything beyond 5 minutes. In addition to what users upload, they could of course upload their own content without limit to enhance the depth of offerings.

For music videos, they could get the same financial deal that Yahoo and other sites have with the labels for music videos. But, knowing that the labels want to have their own outlets on TV for their music, they have some leverage to work out a trade as an option.

In addition, each would have the option to enhance the benefits available to their own broadband subscribers. So Comcast for instance, could do their deal so that non Comcast subs would be limited to 100k encoding quality with the flash codec, but subscribers could have their content transcoded to 300k, and watch video with 10 minute limits, or whatever enhanced benefits they could negotiate with the content providers for their subs.

So basically, the big TV distributors could pretty easily work out deals with content rightsholders to be everything Youtube wants to be, but have the inside track to get it done quickly since they are already paying money to the rightsholder and this would be a simple extension.

if it makes sense for a video to be on Youtube for promotional value, wouldnt make more sense to be on the site of a partner that is paying you big money already ?

#### 2. Safe Harbor Video Hosting Done Legally

Since everyone likes to pick on the telcos in net land, lets use them for this example. Lets say that Telco1 offers to its broadband subs the ability to host their own webpages, ala myspace or facebook. And lets say for the sake of example, they also offered exclusively to their subscribers the ability to upload up to 10Gigabytes in a single file or across as many files as they could fit.

In addition to the hosting, they would let you associate all kinds of metadata so you could more easily find it when you searched across your gigabytes worth of file(s). They would host the file in its original format and then once it was uploaded, they would give you a couple buttons for you to choose from. A button to post to your myspace page. A button to post to your Telco1 homepage. A button for your blog. HTML code for you to post it anywhere you want.

Basically, since its your video, they will allow you to put it anywhere you want, as long as its your website and under your control. If the original video format wasnt compatible with the website that you wanted to host the video, they would allow you to download a transcoding tool that converted it to the right format. Then you could reupload the files in the myspace or whoever format and keep the original, or take it down if it consumed too much of your storage capacity. This way, the Service Provider hasnt altered the files in anyway. The user has.

Then being the smart telco who reads this blog, they create Tubedexy. Tubedexy would be their own search engine specifically for finding videos and building community around those videos. It wouldnt look like Youtube, it would look more like how [IceRocket.com shows videos](#) it has indexed, with the groups, discussions, friends, users, etc added in. In other words, it wouldnt be promoting videos, it would only be linking to videos. Like a typical search engine.

Under this scenario, Telco1 would truly, no questions asked, qualify for the Safe Harbor Provisions of the DMCA.

They wouldnt have to do deals with anyone.

If they were hosting an infringing video on a users Telco1 Homepage and received a takedown notice, they would have to take it down. If the infringing video was hosted on other sites, Telco1 wouldnt care. The other sites would be hosting the infringing videos, so they would get the takedown notices. Telco1 would only really be bothered when an user was found to be repetitively infringing and uploading files indiscriminately. Then Telco1 would have to out the user to the rights holder after receiving a subpoena from the rightsholder. But thats something Gootube and all other sites will have to do as well, so thats not competitive negative

No fuss, no muss. It all would be 100 pct legal .

So maybe Rupert shouldnt sell DirecTV. It, along with all his Fox content could be great leverage to make myspace the last site standing when it comes to video. Or maybe the Telcos should go on a little buying spree to gain some webhosting and video expertise and gain a foothold in the social networking world.

Or maybe Google will just buy enough of the Telcos and cable companies to cover the country and offer broadband for free. Or set up free wireless everywhere, but require a credit card for “incidentals” to qualify as a service provider. Then they would be a service provider and could really legitimize Youtube with only minor changes, and of course own the world.

Maybe Starbucks would take that as a competitive move against their instore wireless.

Google vs Starbucks. Now thats a corporate deathmatch that could be interesting to see. Unless of course MicroSoft stepped into the frey to be the white knight to roll up all those that Google didnt want. Whats better than a corporate deathmatch ? A menage trois death match between google, microsoft and starbucks...

You want to play a game of global nuclear domination ?

Sorry for the tangent, i couldnt resist ■