

This analysis was generated by Google Gemini on June 11, 2025.

# Corporate Streamers and Copyright: An Analysis of Company Stances

## I. Introduction: The Rise of Reaction Content and the Copyright Conundrum

### A. Defining "Reaction Videos" in the Streaming Ecosystem

On streaming platforms, particularly YouTube, "reaction videos" have firmly established themselves as a popular content genre. This format involves streamers watching and reacting in real-time to various existing media content, such as other YouTube videos, TV shows, movies, or game trailers. For instance, a prominent streamer commenting on specific situations or content is a form of reaction content.<sup>1</sup> The case of Uncle Roger reacting to cooking videos<sup>2</sup> is a typical example. One source defines the core of reaction content as "content that shows the reactions, criticisms and commentary of people viewing media," and also touches upon its historical evolution.<sup>3</sup> Viewers enjoy the streamer's personality, humorous timing, insights, or emotional responses layered onto the original content.

### B. Inherent Copyright Issues and the Purpose of This Report

The practice of creating such reaction videos inevitably raises copyright issues. Because streamers use third-party copyrighted works as the foundation of their content, the question arises whether this use is licensed, permissible under legal doctrines like fair use, or simply copyright infringement.

This report aims to investigate the user's core question: what stance do the companies these streamers belong to (especially English-speaking companies) take towards copyright compliance? Are companies requiring their affiliated streamers to strictly adhere to copyright law, or are they approaching it with a degree of leniency? This report seeks to clarify the reality and background of these corporate attitudes.

### C. Introductory Considerations

As the user points out, the reason some reaction content appears "unauthorized" lies in the fundamental tension between the participatory culture of online platforms and copyright law. Online culture tends to encourage reacting to, remixing, and sharing existing content, while copyright law is inherently designed to protect the exclusive rights of original creators. Reaction videos sit squarely in this conflict zone, and instances that appear "unauthorized" are a direct manifestation of this tension.<sup>3</sup> The term "content theft" is also used, highlighting this conflict.<sup>3</sup>

Furthermore, for streamers, the creation of reaction content is driven by economic incentives such as views, advertising revenue, and sponsorships.<sup>4</sup> If content becomes popular and

monetizable, streamers and their affiliated organizations may have a higher tolerance for legal risks. If an organization benefits from a streamer's popularity through revenue sharing or increased brand exposure, it might tacitly approve the creation of legally gray content, as long as direct legal actions from rights holders are sporadic. This suggests a connection between the *practice* of reaction videos and the *business models* of streamers and their affiliated organizations.

## II. Legal Framework: Understanding Copyright and Fair Use in the Digital Age

### A. Basic Principles of Copyright Law

Copyright law protects creative expressions, granting authors exclusive rights such as reproduction, distribution, and display.<sup>5</sup> Using copyrighted materials like music, images, video clips, or game footage without permission can lead to copyright infringement.<sup>5</sup> This principle is crucial for reaction videos, as they are based on existing copyrighted works.

### B. Understanding "Fair Use" (Primarily U.S. Law)

Fair use is a significant legal doctrine in U.S. copyright law that permits the limited use of copyrighted material without permission from the copyright holder for purposes such as criticism, comment, news reporting, teaching, scholarship, or research.<sup>7</sup> It aims to balance copyright protection with the public interest in accessing and building upon existing works. Fair use is also mentioned in the context of Twitch.<sup>8</sup>

Fair use determinations are made on a case-by-case basis, with courts considering four factors<sup>7</sup>:

1. **The purpose and character of the use:** Is it commercial or for non-profit educational purposes? Is the use "transformative," adding new expression or meaning, rather than merely copying the original? This is often the most critical factor for reaction videos.
2. **The nature of the copyrighted work:** Using material from primarily factual works is more likely to be fair use than using purely fictional works.
3. **The amount and substantiality of the portion used:** Using a small amount of the original work, and not the "heart" of the work, is more likely to be fair use. However, even a small taking can weigh against fair use if it captures the core of the work.
4. **The effect of the use upon the potential market for, or value of, the copyrighted work:** Uses that harm the copyright holder's ability to profit from their original work are less likely to be fair uses. Parodies may be an exception.

"Transformative use" is key for reaction videos. A truly transformative reaction adds significant commentary, criticism, parody, or new insight, rather than just replaying original content with minimal remarks.<sup>7</sup> The *Hosseinzadeh v. Klein* case<sup>11</sup> found that a reaction video by h3h3Productions, which used clips (not the entirety) of an original work to provide criticism and commentary, could qualify as fair use.

## C. Digital Millennium Copyright Act (DMCA)

The DMCA provides a system for copyright holders to request the removal of infringing content from online platforms (the "takedown notice" system).<sup>8</sup> Platforms like YouTube and Twitch have established procedures based on the DMCA.<sup>7</sup> Creators can file a counter-notification if they believe their content was removed mistakenly or qualifies as fair use.<sup>8</sup> Repeat infringement can lead to account termination (e.g., Twitch's "three-strikes" policy).<sup>8</sup>

## D. Table 1: Application of Fair Use Four Factors to Reaction Video Scenarios

Reaction Video Scenario Type	Purpose and Character of Use	Nature of Copyrighted Work	Amount and Substantiality Used	Market Impact	Likelihood of Fair Use
Full playback + minimal commentary	Low transformative, primarily entertainment	Creative work, unfavorable	Entire work used, highly unfavorable	High potential to substitute original, harming market	Low
Short clips + extensive critical review	High transformative, criticism/comment	Creative work acceptable as object of criticism	Minimal clips necessary, favorable	May complement or have negligible impact on original market	High
Parody/comedic reinterpretation	High transformative, parody	Creative works often targeted	Evokes core but excessive use unfavorable	May create different market or indirect impact	Medium-High
Educational analysis of specific scenes	High transformative, education/explanation	Factual or creative works	Minimal use for analysis, favorable	May complement original or add new educational value	High
Music as BGM (long use over unrelated/silent content)	Non-transformative, mere background	Music is highly creative	Full or substantial song use, unfavorable	High potential to harm licensing market	Low
Game playthrough (unedited,	Low transformative, near mere	Games are highly creative	Long use including core story,	May reduce purchase incentive,	Low-Medium

story-heavy game to ending)	performance		unfavorable	harming market	
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This table is intended to clarify the nuances of fair use through concrete examples relevant to reaction videos, acknowledging that fair use is an ambiguous and complex concept. It illustrates that not all reaction videos are treated equally under fair use, helping to understand why companies might be "strict" or "lenient."

## E. Legal Framework Considerations

The "transformative use" criterion creates a significant gray area for organizations and their streamers to navigate. While blatant infringement like re-uploading an entire movie is clear, the threshold for "sufficient" transformation in reaction content is subjective and often only definitively determined in court <sup>7</sup>, leading to uncertainty. The debate surrounding xQc and Klein's practices <sup>3</sup> illustrates differing views on what constitutes transformative use. Because of this subjectivity, no simple checklist for "fair use reaction videos" exists. Companies and streamers operate within this uncertainty, and the corporate "strictness" or "leniency" the user queries may appear inconsistent or reactive partly due to this inherent ambiguity in the law itself.

The DMCA takedown system, while intended to protect rights holders, can be misused or abused, placing the burden of proof (and often financial risk) on creators asserting fair use.<sup>5</sup> The Ironmouse DMCA strike issue <sup>5</sup> is one such example. YouTube's fair use protection initiative <sup>7</sup> is an attempt to mitigate this risk for some creators but is limited (e.g., to the US), suggesting a systemic imbalance remains. If a corporate streamer receives a takedown notice, the company must decide whether to support a fair use defense (with its costs and uncertainty) or advise compliance/removal. This practical aspect of the DMCA influences how "strict" a company might appear; they may urge removal to avoid hassle even if fair use is arguable.

While this report focuses on English-speaking streamers, making US fair use doctrine central, different legal systems exist internationally, such as "fair dealing" <sup>7</sup> or more limited exceptions in the EU.<sup>7</sup> Global organizations or streamers targeting diverse audiences face a more complex compliance landscape. This can affect a multinational corporation's overall risk assessment and internal guidelines. Major streamer organizations <sup>13</sup> operate globally, so a company's global policy might be stricter to align with the toughest legal environment, have region-specific guidelines, or primarily focus on US law if their main market/talent base is there, accepting risks elsewhere. This adds another layer to why a company might adopt a particular stance.

## III. Corporate Approaches to Streamer Content and Copyright Compliance

## A. General Expectations and Contractual Considerations

Agencies and esports organizations typically enter into contracts with their talent. These agreements commonly outline content creation obligations, intellectual property rights ownership, codes of conduct, and exclusivity [<sup>14</sup> (for VTuber agencies); <sup>15</sup> (for esports player contracts)]. Compliance with laws, including copyright, is a standard expectation, even if not specifically detailed for reaction content. Cloud9's terms, for example, state that users must not infringe copyright and must comply with applicable laws.<sup>16</sup>

## B. Analysis of Publicly Available Policies from Various Organizations

- **VShojo (VTuber Agency):** Known for allowing talent greater independence and ownership of their intellectual property.<sup>14</sup> Their legal page <sup>18</sup> grants a limited license for non-commercial community use of VShojo talent IP, requiring original contribution and prohibiting simple re-uploads or low-commentary content. This indicates an expectation of transformative works. VShojo's model, where talent has more autonomy yet clear guidelines on transformative use for derivative content, likely extends to their approach to reactions of third-party content.
- **FaZe Clan (Lifestyle Brand & Esports Organization):** Has a detailed User Generated Content (UGC) policy <sup>19</sup> granting FaZe Clan broad rights to user-submitted media and requiring users to warrant its originality. More relevant is their Fan Content Policy <sup>20</sup>, which permits the creation of fan content based on FaZe's IP under strict non-commercial rules, requiring content to be appropriate and not imply endorsement. It also states, "using our name, logo, artwork, videos, member likenesses, and other intellectual property ("FaZe IP") without our permission is illegal." While focused on *their own* IP, FaZe Clan's detailed policies show a strong awareness of IP rights, suggesting an expectation that their streamers respect others' IP, though specific guidance on reaction videos is not detailed in these materials. The UGC policy <sup>19</sup> includes an indemnification clause, implying creators are expected to be liable for IP infringement.
- **Cloud9 (Esports Organization):** Their Terms of Service <sup>17</sup> and Terms & Conditions <sup>16</sup> explicitly prohibit users from uploading content that infringes copyright or other proprietary rights. They reserve the right to remove content and deny access for violations. This is a clear, albeit general, stance on copyright compliance, suggesting affiliated streamers are expected to adhere to these terms.
- **Team Liquid (Esports Organization):** Job descriptions for content-related roles <sup>21</sup> emphasize aligning content with branding goals and telling the team's story. Their core values include "INTEGRITY" <sup>22</sup>, which can be interpreted to encompass lawful content creation. While not a direct copyright policy for streamers, the emphasis on brand alignment and integrity suggests an environment where copyright infringement would not be encouraged.
- **Fnatic (Esports Organization):** Their IP policy regarding fan creations based on *their own* IP <sup>23</sup> is strict about "no selling" and crediting but explicitly states, "This policy only

relates to our intellectual property," and "We cannot give permission or assurances that what is generally acceptable to us will be acceptable to any other intellectual property owner." This is a crucial distinction. Fnatic recognizes the limits of its permissions, implying an understanding that streamers using third-party IP (as in reaction videos) are subject to those external rights holders' policies and general copyright law.

- **Twitch (Platform):** As a primary platform, Twitch's policies <sup>8</sup> are foundational. They respond to DMCA notices, have a repeat infringer policy, and provide community guidelines prohibiting illegal activity.<sup>8</sup> It's clearly stated that "All streamers must follow our Terms of Service and Community Guidelines, and are subject to the same treatment under our DMCA Guidelines".<sup>8</sup> Organizations whose streamers use Twitch are inherently subject to Twitch's enforcement, forming a baseline for copyright adherence.

### C. The Spectrum of Enforcement: Explicit Guidelines vs. Tacit Tolerance

The evidence suggests a spectrum. Some organizations, like VShojo <sup>18</sup>, offer relatively specific guidelines regarding transformative use of their own IP, while others, like Cloud9 <sup>16</sup>, have broader prohibitions against infringement. The lack of publicly available, highly detailed policies *specific to reaction videos using third-party content* from many organizations suggests that enforcement may often be reactive (i.e., responding to DMCA takedowns) rather than proactively prescriptive.

### D. Table 2: Comparative Overview of Streamer Organization Policies/Approaches to Creator Content and IP

Organization	Published Policy on Creator/Fan Content (Summary & Source)	Implied Stance on 3rd Party IP Use/Reaction Content	Key Governance/Ownership Aspects (if available)
VShojo	Permits non-commercial derivative use of talent IP with transformative requirements <sup>18</sup>	Likely expects similar transformative approach	Emphasis on talent IP ownership <sup>14</sup>
FaZe Clan	Detailed Fan Content Policy for FaZe IP; non-commercial, no implied endorsement <sup>20</sup>	General expectation of IP respect	Strict control of FaZe Clan brand
Cloud9	General prohibition of IP infringement in Terms of Service <sup>16</sup>	Infringement not tolerated	Broad control via platform terms

Team Liquid	Emphasis on brand alignment, integrity (from job descriptions, core values) <sup>21</sup>	Likely values legality and brand image protection	Explicit IP policy unclear from materials
Fnatic	Own IP policy applies to fan creations, distinct from 3rd party IP <sup>23</sup>	Recognizes 3rd party IP use as streamer's responsibility	Clearly distinguishes own vs. 3rd party IP rights

This table consolidates how various organizations publicly approach content creation and IP, directly addressing the user's query about corporate "strictness" or "leniency." It visually demonstrates that there isn't a monolithic corporate stance; approaches vary depending on the organization's model (agency, esports team, brand, etc.) and specific policies. By comparing published policies, the user can better gauge whether a company's actions (or inactions) regarding streamer reaction content align with, or deviate from, documented principles, helping to infer if leniency is intentional or an oversight.

## E. Corporate Approach Considerations

Many corporate policies focus on protecting the *organization's own IP* [<sup>20</sup> (FaZe Clan)<sup>23</sup> (Fnatic)] or general legal compliance [<sup>16</sup> (Cloud9)], rather than providing explicit, detailed public guidelines for streamers on how to navigate fair use of *third-party content* in reaction videos. This suggests a possibility that the primary responsibility for understanding and adhering to copyright law is left to individual streamers, with organizations mainly intervening when issues (like DMCA notices) arise. The company's primary concern may be avoiding direct legal trouble or reputational damage, not micromanaging perfect fair use compliance for all content unless a problem is flagged (e.g., via DMCA <sup>8</sup>).

The VTuber agency model, particularly VShojo's approach emphasizing talent IP ownership <sup>14</sup> and requiring transformative use <sup>18</sup>, may represent a more evolved or creator-centric stance. This could mean a greater inclination to educate talent on how to create legally defensible fair use content, as the talent's brand and the agency's reputation are intertwined with the legitimacy of the content. When talent owns their IP, they have a vested interest in not losing their channel or facing lawsuits; the agency, by fostering this, also protects its commissions and reputation. This model might inherently encourage more responsible creation than models where streamers are mere contractors using company-owned assets, and the company bears more direct IP risk.

The prevalence of terms like "integrity" (Team Liquid <sup>22</sup>) or "appropriate" (FaZe Clan <sup>20</sup>) in corporate communications, while not legal terms, indicates a desire to maintain a positive brand image. Repeated, blatant copyright infringement by an affiliated streamer could tarnish this image, suggesting a potential incentive for organizations to ensure at least a basic level of compliance, even if not through overtly "strict" proactive monitoring. Companies are brand-conscious [<sup>21</sup> (Team Liquid)<sup>20</sup> (FaZe Clan)], and public accusations of "content theft," like those against xQc <sup>12</sup>, are bad for PR. Thus, even if companies aren't meticulously

pre-screening every reaction video, they have a reputational stake in their streamers not being seen as habitual infringers. This could lead to behind-the-scenes conversations or stricter enforcement if a streamer becomes a consistent problem, aligning with the idea of upholding "integrity."

## IV. Reaction Content in Practice: Case Studies and Controversies

### A. Notable Streamer Controversy Cases

- **xQc:** Accused of "content theft" for reacting to entire videos with minimal commentary, sometimes even leaving the room while content plays.<sup>3</sup> His actions have been contrasted with the more transformative approach of Ethan Klein (h3h3Productions). This highlights the problematic end of the reaction spectrum. xQc's case is a classic example of low-transformation reaction content that draws criticism and is unlikely to be considered fair use, raising questions about his affiliated organization's stance or ability/willingness to intervene.
- **Pokimane:** Faced criticism for issuing copyright strikes, reportedly sometimes for the use of screenshots.<sup>25</sup> While some defend her right to protect her content/brand, others argue it's an overreach or misuse of the DMCA system, especially if the use was transformative or minimal. <sup>26</sup> is a video of Pokimane in a debate, not directly related to copyright strikes she issued, but shows her engagement in online discourse. This illustrates that streamers can be both users of copyrighted material and enforcers of their own (or perceived) rights, sometimes leading to community backlash or counter-arguments about fair use from the other side. It also touches on automated systems (AI bot striking videos mentioned in <sup>25</sup>).
- **Ethan Klein (h3h3Productions):** Successfully defended a copyright infringement lawsuit, with a court finding his reaction video (using clips of another YouTuber's work for criticism and commentary) to be fair use.<sup>11</sup> This was a landmark case for reaction content, establishing that transformative criticism can be fair use and providing a legal benchmark against which less transformative reaction content is judged.

### B. The Unique Challenge of Music Usage

Using copyrighted music in streams or VODs is a major pitfall.<sup>6</sup> Streamers are advised to use royalty-free music or obtain licenses.<sup>6</sup> Twitch has an audio recognition system that flags copyrighted audio in VODs.<sup>8</sup> Music licensing is complex, often requiring sync licenses for audiovisual projects.<sup>27</sup>

A significant development is Twitch's recent licensing deals with major and indie music labels for the "Twitch DJ Program".<sup>28</sup> This allows participating DJs to legally stream copyrighted music, with Twitch and the DJs sharing royalty costs. Music, in typical streamer usage (like background music), is less ambiguously protected under fair use than video content. The



Twitch DJ program shows a proactive, license-based solution for a specific use case, but doesn't cover general reaction video music use or other platforms. This highlights that certain content types may require more formal, distinct approaches.

### **C. The Role of Platforms in Enforcement**

YouTube and Twitch are primary enforcers through the DMCA process.<sup>7</sup> They respond to takedown requests from rights holders. YouTube offers a program to indemnify some U.S. creators whose fair use videos are subject to takedowns for up to \$1 million in legal costs if the removal results in a lawsuit.<sup>7</sup> Platforms are not passive; their systems and policies heavily influence how copyright is practically managed, often acting as the primary mechanism where corporate "leniency" or "strictness" is tested.

### **D. Content in Practice Considerations**

High-profile controversies like those involving xQc or Pokimane often serve as public "test cases" for the boundaries of acceptable reaction content and fair use, potentially influencing community norms and, more slowly, platform or organizational policies. However<sup>12</sup> suggests YouTube drama often "end[s] very much like the 2016 one, with countless heated words and not a lot of change," indicating a degree of inertia. xQc's actions<sup>3</sup> sparked widespread debate, as did Pokimane's strikes.<sup>25</sup> These public events make abstract legal issues concrete. While<sup>12</sup> is pessimistic about immediate change, repeated controversies might cumulatively pressure organizations to clarify stances or urge more caution from streamers, especially if platform strikes<sup>8</sup> accumulate. An organization's "leniency" might be tested when its streamer is at the center of such a controversy.

The development of licensing solutions for specific content types (e.g., the Twitch DJ program for music<sup>28</sup>) points to a potential future path where platforms and organizations broker more deals for commonly used content, moving away from relying solely on the fair use argument for certain categories. However, this is more likely to apply to high-volume, standardized uses rather than the diverse, ad-hoc nature of most reaction video sources. Music has always been problematic<sup>6</sup>, and Twitch created a specific licensing solution for DJs<sup>28</sup> – a proactive step beyond DMCA. Could similar models emerge for reacting to, say, specific TV show or movie catalogs if platforms/orgs strike deals? (<sup>4</sup> mentions reactors can't show full media on Patreon for copyright reasons, suggesting no such general deals currently exist). It's speculative for broad reaction content, but it shows an alternative to the fair use gamble. This is a way companies could appear "stricter" by ensuring content is licensed, rather than "lenient" by merely hoping it's fair use.

The fact that a streamer is affiliated with a larger organization (like those listed in<sup>13</sup>) can change the dynamics of copyright disputes. Rights holders might be more inclined to target an organization perceived as having deeper pockets, or conversely, an organization might use its legal resources to defend content it believes is fair use and strategically important – a step individual creators often cannot afford (related to YouTube's FUPA<sup>7</sup> or h3h3's defense fund<sup>11</sup>). Organizations have legal teams or resources (inferred from their corporate nature) that

individual creators often lack.<sup>11</sup> If a streamer from FaZe Clan (an org listed in <sup>13</sup>) were sued, FaZe Clan might get involved. This could mean being "stricter" in demanding compliance to avoid such suits, or "stronger" in defending what it deems legitimate. The user's question is about corporate stance, and this consideration suggests corporate resources and legal posture are part of that stance.

## V. Assessing Corporate Stances: Balancing Promotion, Creator Autonomy, and Legal Risk

### A. Interpreting Corporate Behavior: Strategic Tolerance, Resource Limitations, or Belief in Fair Use?

Several factors might explain why companies tolerate some legally gray reaction content:

- **Strategic Tolerance/Calculated Risk:** If reaction content drives significant viewership, engagement, and brand exposure for the streamer and organization, the company might decide the potential promotional benefits outweigh the risk of sporadic DMCA strikes, especially if strikes rarely escalate to lawsuits or channel termination. <sup>3</sup> notes that big streamers re-uploading content continues despite no benefit to original creators, suggesting some tolerance.
- **Resource Limitations for Proactive Monitoring:** Given the sheer volume of content produced by streamers, proactive, detailed copyright review by organizations is extremely difficult and costly. Many likely rely on platform tools and reactive measures (DMCA takedowns).<sup>8</sup>
- **Genuine Belief in Fair Use (or Willingness to Test Boundaries):** Some organizations, particularly those with a creator-centric philosophy, may genuinely believe much of their talent's reaction content qualifies as fair use, especially if transformative. They might be willing to support talent in pushing these boundaries. VShojo's policy requiring originality <sup>18</sup> suggests a leaning towards defensible content.
- **Lack of Clarity/Gaps in Internal Policy:** Some organizations may not have developed highly specific internal policies regarding reaction content, leading to ad-hoc responses when issues arise.

### B. The Influence of Agency Models and IP Ownership

- **Talent IP Ownership (e.g., VShojo <sup>14</sup>):** When talent owns their IP and persona, the primary responsibility for copyright compliance in day-to-day content may rest more heavily with the talent themselves. The agency's role becomes more advisory and supportive, helping talent understand how to create legally defensible content to protect their (and the agency's derivative) revenue streams.
- **Company-Owned IP/Traditional Employment:** In models where the organization owns the streamer's persona or directly employs them, the organization might exercise stricter content control to protect its assets and bear more direct liability. However, most streamer-organization affiliations are partnerships rather than direct employment.

## C. The Business Calculation: Promotion vs. Risk

- **Promotional Value:** Reaction videos can act as free advertising for games, movies, or other content, potentially boosting sales or viewership for the original work. Some game publishers explicitly permit streaming and video creation using their games for this reason.<sup>10</sup>
- **Legal and Reputational Risks:** Risks include channel suspension/termination from DMCA strikes<sup>8</sup>, loss of monetization, potential lawsuits (rare for individual reaction videos but possible if egregious or high-profile<sup>11</sup>), and reputational damage to the organization if seen as condoning "content theft".<sup>1215</sup> highlights IP as a critical asset for esports organizations, suggesting an awareness of IP risks.

## D. Corporate Stance Assessment Considerations

An organization's perceived "leniency" may often be a pragmatic response to the high volume and fast pace of online content creation, where proactive legal review of every video is impractical. Thus, "leniency" might be less an intentional policy of disregarding copyright and more a reliance on platform-based, reactive enforcement mechanisms (like DMCA takedowns via<sup>8</sup>) as a first line of defense. Streamers produce hours of content daily or weekly; legal review is time-consuming and expensive, making 100% proactive review unrealistic for most organizations. Platforms (YouTube/Twitch) have DMCA systems<sup>7</sup>, and organizations likely rely on these to flag major issues. This isn't necessarily "leniency" that disregards copyright, but a practical operational model. The user sees "unauthorized" content; this consideration helps explain *why* it might exist despite corporate affiliation.

A company's copyright stance on reaction videos might be indirectly shaped by its primary revenue model. An esports organization focused on tournament winnings and sponsorships<sup>13</sup> may have a different risk/reward calculation for streamer content than a talent agency<sup>14</sup> that takes a direct cut from a streamer's diverse content revenue. The more an organization's revenue is tied to potentially infringing content, the more nuanced its approach to risk management might be. Esports orgs<sup>13</sup> earn from competition and sponsors; talent agencies<sup>14</sup> earn from talent activities. If a streamer's reaction videos are a large part of their income, and the agency gets a cut, the agency has a direct interest in that content continuing. If an esports org's streamer does reactions as a side activity, it's less critical to the org's primary revenue. This difference could lead to varied levels of oversight or support for such content. The report's focus on the Anglosphere means the US fair use doctrine is paramount.

US-based companies, buoyed by precedents like *Klein v. Hosseinzadeh*<sup>11</sup> and initiatives like YouTube's fair use protection<sup>7</sup>, might be more willing to operate in the gray areas of fair use compared to companies in jurisdictions with stricter copyright exceptions. This suggests what appears "lenient" from a US perspective might be considered reckless elsewhere. Fair use is a US concept<sup>7</sup>, and the report is about English-speaking streamers (many US-based or targeting US audiences). The Klein case<sup>11</sup> was a US victory for transformative reaction. YouTube's indemnification<sup>7</sup> is US-only. This legal environment may embolden US

companies/streamers to push fair use boundaries more than, say, an EU company (where exceptions are narrower <sup>7</sup>). Thus, "leniency" can be culturally and legally contextual.

## **VI. Conclusion: Corporate Responsibility in the Reaction Video Landscape**

### **A. Synthesizing Findings: A Spectrum of Approaches, Not a Uniform Stance**

This investigation reveals that companies do not handle copyright compliance for their affiliated streamers' reaction content in a uniform manner. Instead, a spectrum of approaches exists.

Some organizations have explicit guidelines encouraging transformative use (e.g., VShojo's policy for its own IP <sup>18</sup>) or general prohibitions against infringement (e.g., Cloud9 <sup>16</sup>). Many appear to use platform-level enforcement (DMCA takedowns via Twitch/YouTube <sup>7</sup>) as a primary filter, combined with general contractual obligations for streamers to act lawfully. There is no evidence of companies explicitly *permitting* streamers to use *any* third-party content without authorization, as such an act would be legally risky for the company.

### **B. Determining Factor: Transformative Use and Its Subjectivity**

The key determinant of whether reaction content is legally defensible often comes down to whether it is sufficiently "transformative" under fair use.<sup>7</sup> This remains a subjective area, often judged on a case-by-case basis.

Companies with streamers who produce highly transformative content may simply appear "lenient" because their content is more likely to be legitimate fair use and attract fewer complaints. Conversely, if a company with streamers engaging in low-transformation "content theft" <sup>3</sup> does not intervene, it is being genuinely tolerant and taking on greater legal and reputational risk.

### **C. Interpreting "Tolerance": Intentional Strategy, Pragmatism, or Neglect?**

Apparent "tolerance" can stem from various factors:

- A calculated judgment that promotional benefits outweigh risks.
- The pragmatic difficulty and cost of proactively monitoring vast amounts of content.
- A genuine belief that the content qualifies as fair use.
- A lack of specific internal policies, leading to reactive rather than proactive management.
- The degree of autonomy afforded to streamers within the contractual relationship.

### **D. The Evolving Landscape and Future Outlook**

Legal precedents continue to be shaped.<sup>11</sup> Platforms are evolving their tools and policies (e.g.,

Twitch's music licensing <sup>28</sup>, YouTube's fair use indemnification <sup>7</sup>). Increased awareness among creators and rights holders, as well as ongoing public debates <sup>9</sup>, may lead to changes in practice. <sup>9</sup> suggests AI-driven content generation and evolving legal interpretations will continue to shape fair use.

Ultimately, responsibility is shared. Creators must strive for transformative and respectful use, platforms must provide fair and effective systems, and organizations have a duty to guide their talent, set clear expectations, and uphold legal and ethical standards.

## E. Answering the User's Core Question

Are companies strictly enforcing copyright, or are they quite lenient? The answer is nuanced:

- Companies are generally not explicitly *authorizing* infringement; most have terms requiring legal compliance.
- However, "strict" proactive and detailed enforcement of copyright compliance for all reaction content does not appear to be the norm, due to practical challenges and the complexities of fair use.
- "Leniency" is often observed in the gray area between blatant infringement (which would likely be addressed if flagged) and clear transformative fair use. Companies may rely on streamer judgment and platform DMCA processes, tolerating content in this gray zone as long as significant issues don't arise.
- Thus, while not actively encouraging infringement, operational realities often result in a system that *appears* "lenient," especially when streamers push fair use boundaries without immediate, direct intervention from their affiliated company. The distinction between actual leniency and pragmatic operational limits is the core complexity.

## F. Concluding Considerations

The "unauthorized" reaction content perceived by the user is likely fueled by the tip of the iceberg: high-profile instances of low-effort reactions or DMCA disputes. A large volume of reaction content may be sufficiently transformative not to draw attention, or rights holders may choose not to act for various reasons (promotional benefit, de minimis use, cost of enforcement, etc.). Corporate "leniency" might, in part, reflect the behavior of this broader ecosystem. The user sees "unauthorized" content, and <sup>3</sup> show controversial examples.

However, fair use *does* exist <sup>7</sup>, and many rights holders do *not* issue DMCA notices for every use. So, what appears "unauthorized" and "tolerated by companies" might sometimes be (a) actual fair use, (b) infringement tolerated by the *rights holder*, or (c) infringement tolerated by the *streamer's company*. The company's stance is only one part of this complex interplay. The long-term viability of the reaction content genre, especially in its less transformative forms, may depend on evolving platform policies and the collective stance of major rights holders. If platforms become stricter or major studios/labels consistently crack down harder, streamer organizations would be compelled to become "stricter" in their oversight to protect their business interests and their talents' careers. Twitch's DJ program <sup>28</sup> is an example of a platform fostering a more sustainable, licensed model for a specific content type. The current system relies heavily on DMCA and the ambiguities of fair use. If rights holders or platforms

significantly change policies (e.g., more automated takedowns, narrower platform interpretation of fair use), the current level of "leniency" (be it strategic or pragmatic) from organizations would not be sustainable; they would *have* to enforce stricter compliance to avoid constant channel strikes/bans for their talent. The Twitch DJ program<sup>28</sup> shows a proactive move towards licensing, which is inherently stricter than relying on fair use.

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