<u>Reconsidering Digital Distribution</u>

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In years past, legacy companies used the precise calibration of windowing to meticulously monetize media over time, medium, platform and territory. Theatrical releases would proceed to home video, to pay television, then to free television. Network television moved to off-net syndication. Global media distribution followed a similar pattern, cycling through platforms, with sub-distribution rights for each country sold separately. Each window preserved a distinct opportunity for consumption, and perhaps repeat consumption.

Over the last two decades, digital distribution has disrupted traditional windowing with respect to media infrastructure and media regulation. Distributors of media content for film, television and radio have chosen to shorten, adjust, or even eliminate, domestic and international windows in response to consumer demand. Digital delivery and improved infrastructure has allowed consumers to skip over windows, both legally and illegally.

In fact, media distributors have hoped to lessen the effects of piracy, by proactively eliminating windows. By providing consumers with content out-of-sequence, media distributors are attempting to close the “piracy window” at multiple points along the production and distribution value chain. Making content easier to access makes piracy less attractive, at least theoretically. A high quality pirated version of *Expendables 3* was readily available online for several weeks prior to theatrical release this summer, and it was downloaded over five million times, one million of those domestically. Had the film been available via premium video on demand (PVOD) would the studio’s take have increased significantly? Or will some audiences never pay?

More distributors are considering PVOD, with Lionsgate and Roadside releasing *Arbitrage* in 2012 and generating $8 million in PVOD sales, nearly doubling revenue from the theatrical window. In the summer of 2014, the Weinstein Company released the post-apocalyptic sci-fi epic, *Snowpiercer*, via a platformed theatrical release—and also on iTunes just two weeks after opening weekend. This hybrid strategy generated roughly equivalent grosses of $5 million for each, with additional revenues to come from streaming, cable and optical discs. Analysts contend that theatrical plus SVOD grosses for *Snowpiercer* will approach those of a purely theatrical play. Potential upsides of a PVOD release include additional revenue generated, savings of theatrical print/delivery costs, and piggybacking of promotional campaign elements. This is especially important for independent distributors who struggle to survive fluctuations in the traditional theatrical market. Thus far, the major studios have hesitated to utilize a VOD digital day-and-date strategy, in part because legacy industries, including motion picture producers and theater company chains, are slow to confront the changing media landscape. Neither the majors nor the chains are willing to discount their partnership with the other just yet.

Television content—both made for and sent to—is currently distributed via multiple channels over multiple devices, accessible on Hulu, Netflix, or Amazon Prime and from a

Apple TV, Amazon Fire TV, or Roku box. Digital accessibility for television content is predicated on a "day-and-date" release schedule that is actually everywhere and all the time. Using the Internet as a conduit, these companies are eliminating windows, at least for the content they have the rights to.

Legacy media can respond with much more (of the same), as when the cable channel FXX rolled out a 552-episode, 11-day marathon of *The Simpsons*, presenting every episode of the long-running animated series in sequential order. And, moreover, in October of this year, Fox will launch a *Simpsons* online portal. Like HBO Go, *Simpsons World* will require authentication. Cable subscribers who get the FX bundle (FX, FXX, and FXM) will be able to access the service, which will offer numerous ways to binge on the formidable back catalog, and to interact with an entire searchable *Simpsons* ecosystem. The launch of the online portal effectively closes the optical disc window for twenty-five seasons of *The Simpsons,* previously available on DVD.

The Supreme Court ruling on the Aereo case rejected one attempt at digital distribution that would have partially closed the broadcasting window, at least for a category of consumers in several major metropolitan areas. Aereo contended that they were simply providing broadcast signals via antenna, with consumer-controlled playback capabilities, and delivering them over the Internet. The Court decided that protecting the intellectual property of content providers was the greater concern. Similarly, a portion of the debate over preserving an open Internet circulates around Internet service providers (ISP's) having the right to "manage traffic" from Bit Torrent and other sources of misappropriated intellectual property. In this instance, ISP's are employing anti-piracy tactics in a heavily-publicized campaign against torrents, thereby cloaking what may be anti-competitive practices in the battle between legacy media companies, like Comcast-NBCUniversal, and new entrants, like Netflix.

In the radio business, legacy media companies are launching new strategies for utilizing media infrastructure, especially by broadband Internet content accessible over mobile devices. Radio Disney has just announced plans to sell twenty-three of its twenty-four AM radio stations, retaining its Los Angeles flagship (as the sole remaining ship) as the originator of their online feed. The Radio Disney brand will now be exclusively distributed through satellite radio and digital platforms, including the Radio Disney app. Audiences today access music and other programming via many different sources, and young audiences may be more effectively reached by matching Radio Disney content with additional Disney Channel content via carriage deals with mobile platform companies like ShowMobile, where music-based narratives are packaged into weekly episodes, status updates, and even "instasodes and textisodes."

In each of these instances, digital distribution threatens traditional business models, but offers new opportunities for companies to adapt. Will legacy media companies try to prop up closing windows, or will they work to open new opportunities for consumer consumption?