License to Look: Evolving Models for Library Video Acquisition and Access

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Abstract

Rapid and significant changes in digital video production and delivery technologies have created both opportunities and challenges for film and video producers and distributors, as well as for their institutional clients. For distributors of commercial videos, the move toward online delivery has created an attendant need to reevaluate both the changing nature of the marketplace and the economic models employed in selling products in that market. This article outlines current and evolving models for licensing and delivering commercially produced educational and documentary video content online (streamed video on demand [VOD]), and presents both librarian and vendor perspectives on the benefits and liabilities of these various models. Broad issues considered in these discussions include the added value and changing market for video content delivered online; perspectives on term vs. in-perpetuity licensing; and the short- and long-term impact of new delivery models on collection development, collection budgets, and user services.

Rapid and significant changes in digital video production and delivery technologies have created both opportunities and challenges for film and video producers and distributors, as well as for their institutional clients. For distributors of commercial videos, the move toward online delivery has created an attendant need to reevaluate both the changing nature of the marketplace and the economic models employed in selling products in that market. For institutional buyers of video, major changes in the acquisition and delivery of video necessitates substantial rethinking of related policies, procedures, and services.

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tory in libraries; the commercial players, the economic and technological models, and the budgetary requirements related to licensing online print databases and etexts are well-known. The licensing of online, on-demand video content (VOD), on the other hand is a new and, at present, only vaguely defined concept and practice. While the economic models for VOD licensing may ultimately parallel or at least bear some relation to those developed for online print and data resources, it is likely that much about these models will remain unique to the medium.

This discussion will primarily focus on the licensing of VOD content currently being offered by educational and documentary video distributors, particularly independent distributors. With few exceptions, VOD delivery of theatrical feature films or home video titles exists in a separate market universe which, because of its size, corporate complexity, revenues, and target audiences, bears little relationship to documentary and educational video distribution, or to the library and school media marketplace. The economic models ultimately developed for delivering features and other home video will almost certainly be geared to mass market, pay-per-views sales, and the future availability of institutional licensing for mass marketed titles is uncertain. Because librarians and educators are almost completely unlikely to have any say in the direction or practices of this industry, now or in the future, it will not be included in this discussion.

Institutional Uses of Video

Collection and uses of video content in academic and school libraries have historically taken one or more of the forms described below.

- "Just-in-Case" Collections: Comprehensive standing collections of print and online materials selected to anticipate a broad range of current and future teaching, research, and general institutional needs. While such collections may include materials requested to support specific curricula or programs, they also have broader and longer-term functions: fostering the discovery and use of valuable new resources, and providing and preserving a range of unique materials not widely available in the information marketplace. Because of the expertise required to build "just-in-case" collections, the broad scope of such collections, and the high cost of financing them, this type of collecting is almost always the province of libraries—academic libraries in particular—rather than other institutional support units.
- "Just-in-Time" Collections: Materials acquired to meet specific and sometimes temporal teaching needs, both in the classroom and for individual study outside of the classroom.

  "Just-in-time" collections may be incorporated in larger standing library collections. In some instances, "just-in-time" collecting—for course reserve viewing, classroom screening, etc.—is the <u>only</u> type of

video acquisition supported by a library or learning center. Such collections may also be brokered by organizations outside of the library, such as instructional technology and classroom support units or individual teaching departments on campuses, or by district or regional school media distribution centers.
- General Circulating Collections: Materials selected to meet the broad entertainment and educational needs of community users. Such collections, most commonly found in public libraries, rarely attempt to be comprehensive in scope or size. Currency and popularity of titles is frequently a primary criterion for selection and retention.

The above collecting modes are generally tied closely to the library's overall service mission and to the needs of a specific clientele. In discussing potential economic models for VOD, it is, consequently, extremely important to keep in mind that some models are likely to be more conducive to certain types of collections and collection aims than others.

Video-on-Demand and Libraries: New Vistas and New Solutions

For libraries and educational institutions, online video access potentially addresses a number of pressing problems and evolving needs:

- Increasing user expectations and demand for remote, 24/7 access to library resources. These expectations are, at least in part, being driven by the proliferation of open-access media on the web.
- The critical need to preserve and/or replace deteriorating collections of older media, such as videotape.
- Budget limitations on the purchase of multiple copies and replacement copies of VHS/DVD titles.
- Mounting pressures on library viewing facilities, equipment, and services in the face of increasingly intense collection use.
- The common use of online teaching/learning resources, such as learning management systems (BlackBoard, WebCT, Sakai-compliant systems), which allow the incorporation of media content.
- Changing client demographics and changing educational programs to serve these clients (distance education; adaptive resources for disabled clients; remote library services, etc.)
- General trend toward resource sharing among libraries and other educational and cultural institutions.

The transition from the ownership of collections of physical media to a service-based model of access to licensed resources will entail major rethinking by libraries of the budgeting process, the nature of services and staffing, and many of the traditional roles of the library or media center.

On the distributors' side, a move toward VOD delivery may, depending on the nature of the delivery and licensing models developed, fundamentally alter relationships with institutional and/or individual end users.

It is obvious, even in these early stages of VOD development, that the economic models that governed the sale and use of VHS and DVD titles will most likely undergo far-reaching changes in the digital delivery environment. Although it would be possible to simply adapt the cost model currently in place for educational and documentary DVD sales to a VOD context, and although most libraries would most likely welcome this model, this will very likely *not* be the common scenario. As will be discussed below, one of the significant reasons the traditional "buy once, use in-perpetuity" model will most likely not fly has to do with existing filmmaker/distributor contractual arrangements. However, much of the current debates over VOD licensing models may stem more directly from significant differences between library and filmmaker/film distributor perceptions regarding the fair market value and market impact of online delivery.

The controversies and arguments regarding licensing models alluded to here and elsewhere in this article have been hashed out almost exclusively in online venues such as the VIDEOLIB discussion list (http://www.lib.berkeley.edu/MRC/vrtlists.html), or face-to-face at conferences and meetings, such as the National Media Market (http://www.nmm.net/) and ALA Video Roundtable programs (http://www.ala.org/ala/mgrps/rts/vrt/). As has historically been the case with other aspects of media librarianship, professional literature and print opinion pieces regarding changing video markets and marketing practice are almost nonexistent.

Delivery Modes

Unlike the delivery models in place for online print resources, which in almost all cases entail licensing access to content maintained on the provider's remote server, VOD delivery models currently vary widely. It is currently not uncommon for distributors to offer a number of VOD delivery options. Predominant delivery models include the following:

- Digital files for individual titles are supplied by the distributor or film producer in one of several formats (Windows Media, QuickTime, Real, etc.) and maintained on and streamed from client's local server.
- Digital files for individual titles are encoded by the client (or outsourced) and maintained on and streamed from the local server.
- Streamed access to individual titles or to a library of titles is provided via the distributor's remote server.

In the models described above that entail maintenance of files on a client's local server, the license agreement generally mandates user authentication via password, IP address, digital rights management software, etc.

Licensing Models

The licensing models outlined below include both those in current use and those that have been suggested or discussed as possibilities for the future in ongoing discussions between video distributors and librarians. One overriding (and often hotly contested) issue related to all of these models concerns the term of the license provided by the vendor—whether the license offers access for a limited term, or in perpetuity.

Currently, the majority of distributors of VOD content license access to individual titles for a fixed term—generally one, three, or five years. Renewal of the license is very frequently contingent on the distributor's contractual terms with the filmmaker.

> *The Librarian's Perspective:* Libraries have traditionally bought physical collections outright and in perpetuity: A book or DVD is purchased once and retained in the collection "forever," barring physical disintegration. While libraries routinely pay annual subscription fees for print and online journals, the notion of repeatedly "re-buying" a monographic work in the collection–i.e., a single title that does not add content or value from year to year—is completely foreign.

> *The Distributor's Perspective:* From the perspective of many distributors, term licensing is a necessity, rather than an option. The contractual agreements between distributors and filmmakers are seldom signed in perpetuity. A primary reason for these finite contracts is the fact that filmmakers themselves are very often contractually obligated to periodically renew rights agreements with various intellectual property owners for stock footage, music, and other materials incorporated in their films.

It should be noted here that the licensing models for electronic books (ebooks) do not strictly parallel VOD term licensing. A common model for ebook acquisition is to annually license a catalog of titles (or a subset) which expands from year to year. While this model is also possible for VOD, the typical number of annual new additions to most VOD vendors' lists is *substantially* lower than ebook vendors. In other cases, the cost of ebook access is based on use of individual titles, and it is often the case that when a certain use threshold is reached, the library "owns" the electronic book in perpetuity. Licenses with ebook providers increasingly include the right to maintain (but not deliver) an archival copy of the licensed titles on a local server.

The switch to a term licensing model for monographic works such as individual VOD titles holds serious implications for library budgets. This model would, in a sense, require making term licensed videos part of the library's serials budget—a continuing financial obligation that would diminish money available for the purchase of new titles. Term licenses are also likely to make periodic "weeding" or "turning off" of underutilized online video titles a necessity. It is also possible that valuable VOD titles will eventually be taken off-line because of filmmaker/distributor contractual agreements.

For academic libraries, these situations would be particularly problematic. Part of the mission of academic libraries—but *only* part—is to serve the specific and sometimes temporal teaching needs of individual curricula. The broader mission of the library is to build and maintain broad standing collections of materials that are responsive to the changing needs of teaching and scholarship over long periods of time. In a sense, term licenses run counter to this mission by potentially forcing the library to actually decrease access to selected titles over time.

The practice of term licensing online video content often seems to be at least partially predicated on ungrounded assumptions on the part of distributors regarding the expanded audience for such material, the added value of online access, and other market factors. While acknowledging the benefits of expanded access and convenience provided by VOD access, the actual market impact of a switch to VOD is much less clear. Libraries currently buy limited numbers of DVD copies. These are circulated and watched repeatedly by individual patrons and shown to classes of various sizes. The total number of sales of an individual title to an institution over the life of the DVD is limited. In most cases, the relatively high price of titles distributed by independent film/video distributors precludes purchase by individuals or by multiple departments on a campus. In the face of these factors, higher pricing (or term pricing) of a new format does not seem justifiable based on quantifiable market factors alone.

As discussed above, there is a common sense among VOD distributors that because VOD may well engender larger viewing audiences and offer substantial value-added benefits for licensing institutions, term licensing is justified and necessary to maintain a suitable market share.

Common Licensing Models

Flat Fee, In-Perpetuity Licensing

Flat fee or in-perpetuity licensing parallels the current model for DVD and print media sales, that is, "buy once, keep always." In this model, VOD files are maintained on a client's server. *In perpetuity* generally means "life of file"; transfer to other formats or standards requires renegotiation of license.

One variation of the flat fee, in-perpetuity model roughly parallels the model employed by some ebook vendors. Customers pay a one-time sign-up fee for the service, which varies, depending on institution type and the number of concurrent users. Titles are purchased for a flat fee per title, which also varies depending on type of institution. Access is via the vendor's remote server: end users log-on to a vendor portal and "check-out" titles for temporary download to the desktop.

Flat Fee Term Licenses

As mentioned above, in these early days of VOD licensing, term licensing of individual titles has arisen as the prevalent economic model. The term of the license is typically one to five years, and the cost of the license is a flat fee for the term.

At present, both term and in-perpetuity license costs per title for single-institution clients generally parallels the institutional cost of the DVD for the title—anywhere from $100 to $400, assuming that the licensing institution owns or will purchase the DVD. For both types of license, costs are usually fixed, rather than based on institution type or number of concurrent users within a single institution. Costs may be adjusted for multiple-institution consortia and other broad-area use. Renewal of the license is commonly dependent on the distributor's contractual terms and arrangements with the filmmaker.

Variable Fee Term Licenses

Some distributors have pointed out that charging less for licensing lesser used or more obscure titles than for high use, core-curricular titles may be one way of spreading out the costs equitably. Making the distinction between "just-in-case" and "just-in-time" licensing—between archival and curricular use—might be accomplished by selling perpetual rights at low "archival prices" after selling them for high "curricular prices" for the first five-year license, or five years after a film's release. Alternatively, titles with little curricular use could be purchased at low prices for a low number of uses only.

Graduated-fee Term License

Graduated-fee term licensing attempts to relate the cost of a license to particular institutional parameters, for example, total full-time enrollment; number of concurrent users; budget size, institution type, etc. In a sense, this model has some parallel in the "tiered pricing" model that is common for VHS/DVD pricing: nonprofit institutions and public libraries are charged less for a title than academic and for-profit institutions.

Standing-Order Model

The standing-order model provides libraries access to a distributor's entire video catalog, or portions of that catalog, for a fixed, renewable term. It is unclear, at present, how this model would practically be accomplished, although remote access to materials maintained on a distributor's server would seem to be the most workable. There are a number of potential licensing models for this mode: Fees that remain fixed regardless of the collection size; licensing of a base collection with additional fees for each new addition; fees based on one or more of the criteria discussed in graduated-fee term license above.

Curated Collections Model

The curated model provides libraries access to a subject- or genre-based collection of third-party video titles selected by a distributor, sometimes in collaboration with experts in the particular fields covered. Curated collections may remain either fixed in size, or may add titles annually. Such collections are generally hosted remotely, although there may also be provisions for local hosting of part or all of the collection. Various pricing options include annual subscription for remote access, or outright purchase of perpetual rights for local hosting.

Curated Collections Model: Librarian's Perspective. For some libraries, particularly those with smaller collections or limited staff, curated collections may offer definite advantages in terms of acquisition, cataloging, and user access. Some vendors also offer valuable indexing, searching features, and pedagogical tools for such collections. Despite these conveniences, this model also has its disadvantages. The purchase of "ready-made" or preselected collections short-circuits the collection development process, and presumes that everything in the curated collection has equal value to users, or continuing value over time. The option for the buyer to pick and choose titles in a curated collection is, at present, not generally available. It is also the case that because curated collections are limited to those titles for which the vendor is able to acquire streaming rights, both egregious omissions and curious inclusions are not uncommon.

Pay-per-View Model

In a pay-per-view model, individual users would stream and/or download videos directly from the distributor's server or a third party content aggregator (e.g., Amazon, Unbox, Jaman, Indiepix, iTunes, et al.). Payment would be per download or stream; students or other users would pay a minimal market rate charge per stream for temporary access to a file. Distributors would have to find ways (e.g., digital watermarking) to differentiate classroom rentals or downloads for permanent instructional use from low-cost student rentals. The future viability of this model is largely dependent on how the commercial Internet market and server technologies develop, and how readily colleges will require students to pay for instructional media as they pay for textbooks and other assigned texts.

One alternative to a strictly pay-per-view model is a mixed distribution mode. In such a model the library would continue to build a broad, "just-in-case" collection of physical media or streamed media accessible within libraries and classrooms only, while individual, on-demand viewing outside of these venues would be pay-per-view.

Pay-Per-View Model: The Distributors' Perspective. As the means for commercial delivery of streamed video over the Internet become more technologically and economically robust, the incentive for independent distributors to circumvent libraries and adopt a pay-per-view model has increased. Distributors have observed that the average Jaman.com user (often a student) pays two dollars for a stream; yet a university pays considerably less per capita to stream the same title for use in the curriculum. In the view of many distributors, this means that products—especially the most popular products—have been seriously undervalued by the educational market, while the more esoteric titles may have been overvalued.

Pay-Per-View Model: Librarian's Perspective. Of the models discussed above, pay-per-view clearly represents the most radical departure from traditional library notions of service, collection development, and collection access. Pay-per-view models might take several different forms: a "textbook model" in which individual students are required to pay for individual course-assigned viewing; a "jukebox model" in which individual users pay for temporary online access to a library of titles; or institutional "rental" to serve a particular class for a limited term. While a college or university library or teaching department could in theory broker and/or subsidize pay-per-view access, technical, accounting, budgeting, legal, and philosophical barriers would very likely make this option impractical.

It is important to understand that because print and video resources still do not have equal academic valence in most curricula outside of visual studies disciplines, faculty may be reluctant to assign viewing, unless the cost per student is kept very low—in the one to five dollar range per viewing. The common student practice of viewing films over several screening sessions, or viewing a film repeatedly for close study would also make low cost per viewing imperative. It should also be noted that it is patiently naive to assume that simply because a video (or text) is assigned as required for a class, the majority of students will do the right thing. It is also important to recognize that the higher the cost per view, the greater the likelihood of piracy and illegal peer-to-peer sharing by students.

Pay-per-view would basically take libraries out of the VOD equation by putting immediate access to online video in the hands (and pocketbooks) of individual users. Depending on the costs involved, there might be considerable benefits to this model. It potentially makes considerably more VOD titles available to individual end users than a library could possibly license. It bypasses many of the collection development uncertainties and missteps faced in building "standing" library VOD collections by pegging access and payment directly to immediate need and use. One could also say that VOD might very well increase the audiences for independently produced and distributed documentary and educational works beyond the current exiguous academic market. On the other hand, it is altogether possible that the net number of titles purchased by an institution would substantially decrease if this model were to predominate. The broad, standing, "just-in-case" collections built by academic libraries would be replaced by a much narrower range of titles assigned by selected faculty "just-in-time" (although distributors might argue that the money lost by the purchase of fewer titles would be recouped by the per-view payments for the more popular and frequently used titles).

In comparison to library-centered models for VOD delivery, the pay-per-view model also has definite downsides from the library's perspective. By bypassing the library, pay-per-view also bypasses the role of librarians in serving as campus advocates and publicists for effective media use and for the work of independent filmmakers and distributors. The pay-per-view model would require distributors to market their works and to sell the idea of required student purchase of video content directly to faculty and academic departments.

The tasks of carefully selecting, describing, and preserving culturally significant materials have always been at the core of the library's mission. Forms of information access such as pay-per-view, which are purely commercial, ephemeral, and brokered outside of the library do not benefit from any of these important functions.

Lastly, although computers and network access are widespread, they are still not universal among student and researcher populations. Information inequality is bound to continue for sometime to come, and a pay-per-view model may well contribute to this ongoing problem.

It is clear that, even if the pay-per-view model does develop in the next decade, there will remain compelling reasons to build and maintain standing collections of video titles, either artifactual or online, in libraries. It is equally clear that while pay-per-view may serve certain specific needs of an academic or public institution, it is unlikely that that model—or any single models discussed above—will be sufficient to serve the broad scope of institutional types and institutional needs. It is consequently important for distributors to accept that they will probably have to offer a "basket" of licensing options. It is equally important for librarians and other information providers to accept that none of these options will probably duplicate the present DVD model.

Note

A slightly shorter version of the above was initially developed as a white paper in conjunction with a preconference on streamed video licensing held at the National Media Market in Lexington, Kentucky, September 2008. The original paper is posted at: http://www.lib.berkeley.edu/MRC/vod08b.pdf. The author wishes to thank Lawrence Daressa of California Newsreel (http://www.newsreel.org/) for his invaluable input and assistance in developing this paper.

Related Readings

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