

A Law Student's Prospective Digital Roundtable

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Digital platforms have taken over the film and television, video gaming, and music industries. The amount of money U.S. consumers spend on video and music subscription services has nearly doubled since 2017.¹ In 2018, U.S. consumers spent \$20.4 billion on video and music subscriptions.² This year, an expected \$26 billion will be spent on video and music subscription services by U.S. consumers. This rapid increase in subscribers has not allowed much time to establish a proper precedent for issues that arise within this digital age. Video and music streaming are global by definition. Since the streaming world is developing so rapidly, it is the perfect time for attorneys who represent artists to reinvent the film and television, video gaming, and music industries. Video and music streaming subscriptions will continue to be growing industries, and it is important to know how streaming subscriptions operate for the consumer and for the companies who create the content that is being streamed.

DIGITAL SUBSCRIPTIONS

Television

Cable TV has become less popular than ever before. In 2018, half of Americans ages 22 to 45 watched zero hours of cable TV. Almost 35 million households in America have quit cable in the past decade.³ This is due to the fact that most people are moving to streaming services, such as Netflix. Netflix has an estimated 59 million subscribers in the U.S. alone and continues to grow its subscribers about 10% each year.⁴ The days where consumers go to the movies, rent a DVD, and watch live TV have been taken over by Netflix. Now, content is available instantly to any device, in almost any location.⁵

Today, original content stands out to consumers. In 2018, Netflix spent \$13 billion on content, which was 85% original shows. The creation of Netflix originals has led Netflix to become a direct competitor to traditional cable television. For example, *Bird Box* is a Netflix original that was viewed by over 40 million subscribers in its first weekend. Other Netflix originals have also had an outstanding number of viewers, such as *House of Cards*, *Stranger Things*, *Luke Cage*, and *Black Mirror*.⁶ Netflix will continue to make a push for original content, which will allow it to stay ahead over other television streaming services. Netflix has planned to spend about \$6 billion on buying, funding, and licensing new original shows. In this digital age, Netflix has changed how U.S. consumers watch TV. However, Netflix is not the only popular television streaming service.

Another television streaming service that has become popular in this digital age is Hulu. In 2018, Hulu had an estimated 25 million paid subscribers. Hulu strategically

lowered its most popular plan from \$7.99 to \$5.99 per month a week after Netflix raised the amount of its most popular monthly package to \$12.99 per month.⁷ Based on the fact that Hulu is much more affordable, it would be no surprise if Hulu surpassed the number of subscribers that Netflix has. Hulu also gives its subscribers the option of adding Spotify to their package at a discounted rate. Similar to Netflix, Hulu has begun releasing its own original content. Moreover, Hulu has become a pillar of Disney's strategy to be a heavy hitter in the streaming world.⁸ Therefore, Hulu could surpass Netflix's popularity in the coming years, but both digital platforms will continue to be top television streaming services.

The way consumers watch TV has completely evolved, largely due to this new digital era. Television streaming services will continue to become more popular and dominant, which is demonstrated by the rapid increase in subscriptions. The best thing attorneys who work in this industry can do now is prepare for the continuous change of the industry. Now is the time to become familiar with the rapid change of the television and film industry, and there is no time to rely on previous deals and standard forms.

Video Games

Technological evolution is common in the gaming space. Over the past 8 years, gaming has been transitioning slowly from a package goods business to the digital distribution model. About 80% of gaming sales is moving towards the digital format. In the 80s and 90s, gaming was mostly available via a disc or cartridge that needed to be inserted in a PC or game console. Today, those methods of gaming have been consumed by digital and mobile gaming. Mobile games have become very popular with game developers, because mobile games are played on less capable devices and do not require as much work as non-mobile games. Further, mobile games are cheaper to develop and easier to build than older models of games.

Today, gaming as a service has become more popular. Gaming as a service can be broken up into two parts. The first part is the rise of post-sale monetization. Post-sale monetization is monetizing the game after the customer has already purchased the game. The most common form of this is the free to play model, where consumers can get the game for free. However, once the consumer has downloaded the game, they can purchase extra items, such as shields for their warrior or access to new levels. This is a good way to draw consumers in, while continuously adding value to the game. The second part is gaming subscription services and streaming. Gaming companies are meeting consumers where they are in this digital era, which is streaming. In 2017, it was reported that more people subscribed to video gaming

streams over television streams on Netflix and Hulu combined.⁹ Twitch dominates live streaming of video games, which is owned by Amazon. On average, Twitch sees 15 million daily active users.¹⁰ The record for Twitch's viewers tuning in at the same time is more than 2 million viewers. That record beats the livestreams of Super Bowl 51.¹¹

The video gaming world has welcomed new technologies and has been able to evolve without drastically affecting business models. In the gaming space, there is less of a concern about piracy than the television, film, and music industries. One of the reasons for that is original gaming devices were the mold, so gaming companies had the ability to require consumers to purchase a gaming system before they could actually purchase games. The gaming companies controlled the operating system and could make sure consumers were not accessing things that were not properly licensed. Which is very different from the television, film, and music industries, because the content producers often do not own the device consumers are using to watch or listen to that content. The content producer and the device the content is viewed on is two completely separate companies and those creating the devices in which the content is being watched or listened do not care to figure out licensing issues. The video gaming world carefully made sure that capabilities to reduce piracy was built into the gaming system itself. Digital rights management built into gaming systems allowed the video gaming industry to avoid piracy, unlike the television, film, and music industries. Overall, the gaming industry was the most prepared for the digital age we live in today.

Music

The music industry has experienced many changes, which is demonstrated through the use and popularity of compact disc, vinyl, cassette tapes, music downloads and record players. The music business is no longer a sales business. Before the music business was all about selling units, whether that be downloads or physical copies. After 2015, selling units became a thing of the past, because streaming took the lead. Music downloads are now 8% of the market and physical sales is about 9% of the market. We are now in a streaming world, and there is no going back. Today, global revenues in the music industry has gone back up to where they were in 2002 during the compact disc era.

In 2017, the Recording Industry Association of America stated that, at 8.7 billion the recorded music industry has taken a decade to return back to the same overall revenues as 2008. In 2002, compact disc made up 95% of the recording industry's revenue. Today, the sale of physical compact discs is less popular due to music streaming. For the first half of 2019, revenues from streaming music grew 26% to \$4.3 billion.¹² Three components contribute to music streaming revenue.¹³ The first is subscription on-demand, such as Spotify, Apple Music, and TIDAL. Subscription on-demand also includes limited catalogs, such as Amazon Prime and Pandora.¹⁴ The second component is

noninteractive digital radio services including those revenues distributed by Sound Exchange, such as Pandora, SiriusXM, and other Internet radios. The third component is ad-supported on-demand streaming services, such as YouTube, Vevo, and ad supported Spotify.

Spotify and Apple Music are two of the biggest music streaming platforms. Today, More than 100 million users worldwide pay for Spotify Premium.¹⁵ Apple Music has about 50 million paid users worldwide. Both of these music streaming services has added podcast to its list of services. The addition of podcasts has contributed to the increase in subscribers. However, Apple Music has advantages over Spotify. Apple Music comes pre-installed on iPhones and there are about 900 million iPhones in use around the world. Also, Verizon has promotions that include free Apple Music subscriptions with certain cell phone service plans. Spotify also has similar promotions, but not with Verizon, who is the largest United States phone carrier.¹⁶ Both music streaming services are direct competitors of one another, but they are not the only way consumers are listening to music.

YouTube is the largest platform for music in the world, with 80% of listening happening on YouTube. However, listening on YouTube does not bring in much money because it is ad-supported. YouTube comprised one-third of the estimated 1.2 trillion streams that occurred in 2018, but only 8% of revenues.¹⁷ It takes 1.5 billion streams to have a platinum record. In the sound recording market, 4 million streams are worth \$4,500. There is a need to adjust the metrics for what is considered successful. In today's model, artists are competing for consumer attention and are not selling music anymore. This is because everyone already has access to the content by being a subscriber. Content is being released at a much faster rate than before the digital age. In the past, artists would release content and get paid for it within 2-3 months. Unlike the past, artists typically wait 2 years to receive payment for their content now. Overall, the basic rules of the music industry have drastically changed.

CONCLUSION

The domination of digital streaming in the film and television, video gaming, and music industries has changed many precedents from earlier years. There is no surprise that digital streaming has become more popular, because consumers want to listen and watch content whenever and wherever. The practitioners in the film and television, video gaming, and music industries need to work together in order to navigate through this new digital age and continue to develop standards within these industries. Streaming in the film and television, video gaming, and music industries has made content easier to distribute to consumers worldwide. In the future, streaming services will have to continue to compete with one another in order to be the number one streaming service within the industry. Artists will continue to have to gain and maintain attention from consumers. It will be difficult to keep up with the changes, but practitioners will have to adjust and learn the new models of the industry. ■

ENDNOTES

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