

QUICK TAKE



March 27, 2006

Cablevision Combines DVR And VOD: Great Idea

"Diskless DVR" Service Will Generate Lawsuits But Ought To Be Legal

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EXECUTIVE SUMMARY

Cablevision Systems recently announced that it is testing a new service called "RS-DVR" — remote storage DVR — that records programs at the cable head-end, rather than with a DVR box in the subscriber's home. This "diskless DVR" (some call it network DVR) exactly duplicates the functions of a real DVR, including pausing live TV, recording shows, and making it easy to skip commercials. While Cablevision will surely be sued for copyright infringement by TV networks, the service is functionally equivalent to current DVRs and should therefore be legal. If RS-DVR can clear the lawsuit hurdle, cable will have an inexpensive service that satellite can't match, boosting digital cable signups.

DISKLESS DVR OUGHT TO BE LEGAL — AND WILL BENEFIT DIGITAL CABLE

Cablevision's RS-DVR waits until a consumer requests to record a program, then records that program when it's broadcast and stores it at the cable head-end. No prices have been announced yet, but we expect Cablevision to charge about \$10 a month. It's great for consumers, as they don't need to put a new device in their home or worry about disk drive failures or running out of disk capacity. RS-DVR will support 45 hours of programs at first, but we expect that to increase. And it's efficient, since a thousand consumers who ask to record "Lost" can share a single copy of the show stored on a video on-demand (VOD) server.

But Is It Legal?

Current digital video recorders are protected by the home taping laws, which allow consumers to record programs at home for their own use. Most legal scholars agree that recording on a disk drive is protected, along with recording on tape. But Cablevision's service is something different.

- **The argument for: It's just the same recording in a new place.** Cablevision will argue that it makes no difference if the recording is at home or in another building.¹ By including the same restrictions as a disk-based DVR — allowing consumers to see only programs they've asked to record, for example, and restricting viewing to the set-top box that requested the recording — Cablevision shores up its case that the service is just like a DVR box in the viewer's home.²
- **The argument against: It's a service that Cablevision has no right to provide.** Cablevision has agreements with the networks it carries that only allow certain specified shows to appear on VOD. The networks will argue that recording shows on the viewer's behalf violates the network's copyright

and these carriage agreements, especially since Cablevision will be charging a monthly fee. They will also say that “home taping” means “in the home” and that recording in another location isn’t covered.³

- **Our call: Diskless DVR should be legal . . .** Why should it make any difference where the recording takes place? Technology blurs the division between home devices and networks, and legal arguments attempting to draw the line will end up hopelessly muddled. Networks’ lawsuits are just attempts to slow the inevitable spread of DVRs, but it’s better to face up to the challenge than to stop it.
- **. . . but expect a long battle.** Consumers’ rights to record content are a central issue in copyright law. Neither side will give up easily. Expect consumer advocates like the Electronic Frontier Foundation to weigh in on the side of Cablevision, while other content owners like the Motion Picture Association of America (MPAA) will likely back the networks. This will end up in the Supreme Court, and, like the Grokster case, it could take three to five years to get there, potentially delaying RS-DVR’s rollout.⁴

Why Diskless DVR Is Good For Cable — And Telcos

Assuming that Cablevision can win or negotiate its way clear of the lawsuits, diskless DVR will be great for cable and telephone TV suppliers:

- **Satellite can’t match it.** Only cable and telcos, with their VOD architecture, can support storage in the network to record any program for any digital subscriber. Satellite’s DVRs and TiVos will start to look second-rate, with their limitations on recording space and potentially failing disks.
- **VOD and DVR will merge, and operators will pay networks for recorded content.** It confuses consumers to have to deal with two on-demand paradigms: VOD programs selected by the operator and DVR programs recorded at home. RS-DVR merges the two architecturally, and now it’s time to merge them in the consumer’s mind. Rather than negotiate individually for programs in VOD, operators like Cablevision and Comcast should offer a recorded program service, collect fees for it, and return most of those fees to the program owners in proportion to the amount of viewing. This will vastly expand the selection of on-demand content.⁵
- **Cable will draw consumers further into digital and VOD packages.** Cablevision has already achieved 60% digital penetration within its subscriber base — the best in the industry. With this effort, it will move even more subscribers over to digital, which is an essential move in the long-term race to free up bandwidth. Other cable operators will offer the same service as soon as the legal situation is cleared up. VOD and DVR both reduce churn, and combining them should marry consumers to cable more tightly than ever before.

- **Telcos can and will follow the same path.** AT&T and Verizon start from an all-digital, VOD-enabled architecture. They'll match Cablevision's features and add more, including access to Internet video and delivery of programs to computers, as well as TV sets.
- **Scientific-Atlanta will reap the benefits.** Cisco's Scientific-Atlanta (SA) division is supplying the technical elements of Cablevision's service. As diskless DVR takes off, SA's experience with recording in the network and efficient IP delivery will place the company ahead of competitor Motorola as it pursues contracts with operators like Comcast and AT&T. Even as DVR vendors like TiVo and Motorola pursue complex multiroom DVR architectures, SA could sweep the whole problem away by allowing any TV to get access to shows stored in the network.

ENDNOTES

- ¹ Nineteen percent of consumers use the word "love" to describe their relationship with their digital video recorder. See the August 31, 2004, Trends "[The Mind Of The DVR User: Acquisition And Features.](#)"
- ² A few years ago, Time Warner Cable had planned a similar service called "Mystro" that allowed consumers to watch any show previously broadcast, without the requirement of having to ask beforehand to record it. To maintain the legality of the service, Time Warner approached networks for permission to carry their shows on Mystro, but none agreed to terms. Instead, the company has launched "startover," a service that allows viewers who join a program in the middle to start at the beginning, but the service is allowed only on the networks that have agreed to participate and doesn't allow the consumer to use fast-forward.
- ³ In a similar situation, MP3.com at one point created a service that would store ripped versions of consumers' CDs on its network. Although the consumers had to prove they owned the CD by putting in the drive, in the end, MP3.com was forced to take down the service due to the threat of legal action.
- ⁴ The US Supreme Court has ruled unanimously that entities that contribute to piracy — such as the Grokster file-sharing network — can be sued. See the June 27, 2005, Quick Take "[Court Rules Against Grokster, Piracy Goes On.](#)"
- ⁵ VOD is growing, but its advertising model is still challenged. See the May 5, 2005, Trends "[The Advertising Model For Video On-Demand.](#)"