Legal Napster?
EDUCAUSE Evolving Technologies Committee
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Introduction

It is only a few years ago that Napster was the scourge of every CIO of every institution of higher education in America. Our Internet connections were overwhelmed by this new menace which threatened the integrity of our networks. While we variously dealt with Napster, mostly by buying more bandwidth from our Internet service provider or by trying to banish Napster, KaZaa, or any other incarnation of the same phenomenon, we ultimately learned to live with MP3 downloads and other P2P applications.

The recording industry, fearing a tremendous reduction in profitability, tried to stem the tide first by suing Napster and other “providers” of illegal MP3s and then the users of these services. These lawsuits have had only mixed results and the industry is now embarking on a new approach: they are providing commercial music downloading and streaming services which they hope will persuade music lovers to go legal.

These services are trying to convince colleges and universities to purchase their product. This article will give an overview of the offerings, both for music and other digital content, the potential advantages and disadvantages of these services plus the experience to date of one large public institution with the legal Napster, and what may be next.

What are the characteristics of the on-line entertainment content providers?

Apple’s iTunes (www.itunes.com) was the first and most successful attempt at selling music over the Internet. Driven by its hugely popular iPod portable MP3 player, Apple was able to sell millions of songs for $.99 a piece. This persuaded the music industry that there was a future in selling music over the Internet versus selling CDs through its traditional retail channels. Soon the new Napster (www.napster.com) was born and RealNetworks followed suit with a product called Rhapsody (www.rhapsody.com).

Whereas iTunes allows patrons to purchase songs, Napster and Rhapsody provide another service. By purchasing a subscription, patrons can stream unlimited amounts of music to their computers. They can even download unlimited amounts of songs and play them while off-line, a concept called tethered downloads. As long as they are keeping their monthly subscription up-to-date, they can play those stored and any streamed music files. All of these providers feature additional services such as unique playlists, search capabilities, and players that let users organize libraries of music for playback on their computers, entertainment systems, and portable MP3 players. Around 1,000,000 songs are now available from iTunes. All genres are available but these providers tend to ignore independent music markets much coveted by college age students.

A startup company called Ruckus (www.ruckus.com) is trying to address this gap. They will provide music from independent labels and perhaps more innovatively work from local bands that frequent the college scene. In addition Ruckus plans to deliver movies, cult TV and film programs and local entertainment events listings. They will provide cover art, critical reviews, student produced content and other information specifically geared towards the college student’s scene.
Key Questions to ask yourself about legal music providers

The most important question is whether or not campuses should provide these services to students and who should pay. The usual arguments in favor of offering the service are that through providing a legal and managed service we can preserve bandwidth (through various cashing mechanisms) and that providing legal alternatives will teach students to respect intellectual property rights. Another potential benefit is that legal music services are not infected with viruses, something that tends to be rampant with the illegal file sharing services available.

Why Is this Important to Higher Education? OR why should you care?

Legal P2P is only in its infancy today and consequently it does not yet appear to be very important for higher education. However, just like campus networks a decade ago and wireless only a few years ago, what appears to be brand-new and optional today is old news and required tomorrow.

Digital life is critically important for students. The current generation of students are so entrenched in their digital worlds that colleges and universities may well be forced to provide non-educational digital content in the not too distant future. Today many campuses provide cable TV, an FM radio station, and through the library, access to traditional analog content of various kinds. A plausible argument can be made that providing all of this content digitally will provide campuses with a competitive advantage. That is to say, just like the Yahoo Most Wired list of yesteryear, we may have to deal with the best of digital entertainment list of tomorrow.

Through focus groups commissioned by Ruckus (this paper can be obtained from Ruckus on demand) we see how students are using various entertainment options today. Strikingly, traditional analog media is becoming less important. The computer becomes both the core of the entertainment center as well as a tool for instant communication with peers on and off campus. So watching a movie on a computer or listening to a song while having multiple instant messaging conversations and perhaps writing a paper for class, is a relatively commonplace pattern of behavior. Students tend to use "Resnet" predominantly for entertainment purposes. One could choose to ignore these trends or, alternatively, one could try to put some fences around them and potentially derive some benefits. Indeed a small but growing number of schools are contracting with Napster or Rhapsody to provide this service as per recent articles in the Chronicle of Higher Education (see below). It appears that the cost per student is substantially below the usual retail price of about $10/month: instead $2 - $3/per month seems to be the norm.

Still, the legitimate question remains if campuses should be engaged in providing these services or if the entertainment industry will do it for us. The service providers and music industry executives are trying to influence this debate by calling presidents and CIOs and urging them to actively dissuade students from using the illegal services while subscribing to any of their legal offerings. Whatever the outcome of that debate, it does seem that these trends will have an impact one way or the other on our networks and on our general IT infrastructure. It is for this reason that the higher education IT community needs to be aware of this emerging issue.

What Are The Implementation Challenges?

If a campus were to decide to go forward with any of these services the most important challenge is how to pay for it. Should the college pay the bill? Should the students pay through student fees? Or should every student pay individually? This is perhaps the most vexing issue.
The second issue is the availability of bandwidth on campus to each pillow. A robust network with switched 10 megabits to the desktop and 100 megabits switched to the closet appear to be required. A shared 10 megabits network would definitely be overwhelmed. Some of these services (www.cflic.com or www.cdigix.com) also provide movies which may challenge even a 100megabit network.

Next servers should be placed by the providers either in one central location or depending on the network architecture, if several servers may be deployed. The servers will have a lot of content already stored on them or may fetch and cache content as needed. Digital rights management, security and integration with campus LDAP systems and the like all need to be addressed. Most of these are standard solutions relatively easily implemented but will consume staff time.

In the final analysis, although the burden of making it work rests with the music service provider, the IT organization inevitably will be involved in the rollout and ongoing support.

What has been the experience to date?

Penn State University has provided Napster to 16,500 students in its residential facilities during the spring of 2004. Russell Vaught (Associate Vice Provost for Information Technology) who spearheaded this effort and who will be presenting at the EDUCAUSE 2004 conference, considers it to be a great success. He believes that there was a positive impact on bandwidth, in part because the Napster client is so efficient and because many of the most popular Napster songs are cached on-campus. Between 80 to 100,000 songs are being downloaded each day by Penn State students. Russ believes this understates the actual amount of songs being played both because of local caching on individual students PCs as well as institutional caching on the Napster server. Napster's technology has held up very well with this heavy usage.

Students love the service which is provided to them free of charge. The only complaints they had related to the lack of independent label content, the price of purchasing songs which they deemed to be too high at $.99, and the fact that it was no longer available after they left University dorms. The university is making Napster available to all enrolled students during the fall 2004 semester irrespective of where they live.

One of the main motivating forces for Penn State to provide this service for free to students was the educational message and encouragement of moral and ethical behavior.

What are the rules of thumb for judging among them?

There are no established rules of thumb for judging among the various providers. No doubt student input should be solicited before choosing any one of the providers. There are substantial differences between Napster and Rhapsody, mostly because Rhapsody does not provide the option of purchasing songs. iTunes as indicated above, does not provide for streaming complete songs and you can only purchase songs. And then there's the issue of the independent labels and additional content gear towards college students such as provided by Ruckus.

Price is another major differentiator. These services are so new that every campus can negotiate a special deal. Napster and Rhapsody retail for about $10-$11 per month per client but huge discounts can be obtained. The quid pro quo for the discounts is that the services want to bill the institution rather than each and every individual student.

Finally, there may very well be an educational component to these services. Yale University contracted with Cflix in part because professors use the service in their courses. Classical music is also available from the providers which may be used in coursework. At Duke, the university provided free iPods (players that interact with iTunes) to 1650 freshmen, although the stated goal was not to manage downloads but rather Duke wanted to experiment with the iPods as educational aids.
How should we proceed?

The major question is if and when to engage in this endeavor and, as indicated before, how to pay for the service. Perhaps the prudent path to take is to engage the student government association in preliminary discussions and to invite some of the vendors to campus to demo their products and to engage them on the pricing issue. Various other campus constituencies such as the Dean's Office, ResLife and the like should be consulted.

When will digital entertainment services become essential on campuses

The answer depends on who you ask and what the meaning of ‘essential’ is. Many students would argue that it is ‘essential’ today and they would complain vehemently if the digital entertainment services were somehow made unavailable. Administrators on the other hand may feel that this is a nonessential optional service which, if it should be delivered at all, should be paid for by the students themselves. Others such as Penn State obviously feel the needs to act now.

How Is this evolving?

Digital convergence is perhaps most interesting in the entertainment world. The large media conglomerates are positioning themselves to produce and deliver digital content over varying networks i.e. cable, DSL, broadcast, satellite, etc.. A second important trend is that small, independent producers of content including the students themselves are asking for and are getting “airtime”. A third trend is to move from scheduled programming to on demand access to all (digital) content. Finally, Ruckus believes that there will soon be national networks of student produced content. Indeed with affordable digital movie cameras, this future is already upon us as students produce TV shows with relatively little in production costs.

Where Are The Likely Impacts In The Coming One to Three Years?

This issue is unlikely to go away. Although the jury is still very much out on who will produce, who will sell, and who will pay for these services, we should be prepared to support some or all of these services through our IT infrastructure. On the positive side, we may see cable TV (and associated costs) go away on our campuses. Other issues to be worried about are governance issues around content with student produced material: might we be in the censorship business someday soon?

Conclusion

The legal Napsters have arrived even though many of us have chosen to ignore them. It is unlikely that this issue will go away and so it behooves us to be at least aware of our options or as in the case of some colleges and universities to be actively engaged in providing the service.

Related EDUCAUSE2003 Sessions and papers

Penn State's Legal Online Music Service, Wednesday, October 20, 2004 at 11:40AM

http://chronicle.com/prm/weekly/v50/i47/47a00101.htm (A link to the July 30, 2004 Chronicle article Titled: Napster and 6 colleges sign deal to provide online music to students.)

http://chronicle.com/prm/weekly/v51/i02/02a03701.htm (a link to the Sept 3, 2004 Chronicle article Titled: Realnetworks announces online –music deals with 2 universities).

http://chronicle.com/prm/weekly/v50/i47/47a02101.htm (a link to the July 30, 2004 Chronicle article titled: Duke U . will give iPod music player to all freshmen.)

http://www.educause.edu/2862 (A link to an Educause Live presentation by Yale and Penn State about their experiences with Cdgix and Napster: includes PowerPoint presentations.)