

TV-over-Internet service expands despite lawsuits (Update)

January 8 2013, by Anick Jesdanun



In this Thursday, Dec. 20, 2012, photo, Chet Kanojia, founder and CEO of Aereo, Inc., listens during a tour of the company's technology floor in New York. Aereo is one of several startups created to deliver traditional media over the Internet without licensing agreements. Past efforts have typically been rejected by courts as copyright violations. In Aereo's case, the judge accepted the company's legal reasoning, but with reluctance. (AP Photo/Bebeto Matthews)

The Internet company that challenged cable and satellite TV services by offering inexpensive live television online plans to expand beyond New

York City this spring.

In the wake of a federal court ruling that tentatively endorsed its legality, Aereo will bring its \$8-a-month service to Boston, Chicago, Philadelphia, Washington and 18 other markets in the U.S., as well as to New York's suburbs. For the past year, the service had been limited to New York City residents as the company fine-tuned its technology and awaited guidance on whether its unlicensed use of free, over-the-air broadcasts amounted to a copyright violation.

A federal judge in New York ruled in July that the service doesn't appear to violate copyright law because individual subscribers are assigned their own, tiny antenna at Aereo's Brooklyn data center, making it analogous to the free signal a consumer would get with a regular antenna at home. Aereo spent the subsequent months selecting markets for expansion and renting space for new equipment in those cities.

"The court decision was the green light in our perspective," CEO and founder Chet Kanojia said in a recent interview at Aereo's sparse offices in a former engine factory in Queens. "This is an opportunity of a lifetime to build up something meaningful to change how people access TV."

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If the ruling stands, Aereo could cause a great deal of upheaval in the U.S. broadcast industry. It could give people a reason to drop cable or satellite subscriptions as monthly bills rise. It also might hinder broadcasters' ability to sell ads because it's not yet clear how traditional audience measures will incorporate Aereo's viewership. In addition, it

could reduce the licensing fees broadcasters collect from cable and satellite companies.

Broadcasters have appealed the July ruling. At a November hearing, appellate judges expressed skepticism about the legality of Aereo's operations. In addition, the original judge's ruling was preliminary, made as part of a decision to let Aereo continue operating while the lawsuits wind their way through court. Even if courts continue to side with Aereo on the legality of its setup, broadcasters still could nitpick on the details and try to argue that the antennas don't actually operate individually as claimed.



In this Thursday, Dec. 20, 2012, photo, Chet Kanojia, founder and CEO of Aereo, Inc., stands next to a server array of antennas as he holds an antenna between his fingers, in New York. Aereo is one of several startups created to deliver traditional media over the Internet without licensing agreements. Past efforts have typically been rejected by courts as copyright violations. In Aereo's case, the judge accepted the company's legal reasoning, but with reluctance. (AP Photo/Bebeto Matthews)

Despite Aereo's initial win, copyright attorney Kevin Goldberg with the firm Fletcher, Heald & Hildreth rated Aereo's chances "a toss-up. You really are trying to break new ground here."

Goldberg, who isn't representing either side in the case, noted that a federal judge in Los Angeles already has ruled against a copycat service called Aereokiller. Furthermore, he said, Congress can step in at any time to clarify the law.

Kanojia said he didn't want to wait for a final resolution, which could take years. He said all startups accept some risk when they try to shake up an industry.

With average monthly TV bills exceeding \$75, Aereo is positioning itself as a cheaper alternative. For \$8 a month, subscribers in New York get 29 over-the-air stations. They can watch shows live and record up to 20 hours using Aereo's Internet-based digital video recorder. Subscribers get 40 hours of DVR space for \$12 a month and can reduce that to less than \$7 by paying for a year in advance.

While cable and satellite services are geared toward watching television on TVs, Aereo streams feeds over the Internet to Windows and Mac computers, iPhones, iPads and boxes such as Roku and Apple TV for feeding Internet content to regular TVs. Android support is expected this year. Services such as Hulu and Apple's iTunes also offer television over the Internet, but not live.

The downside: Aereo doesn't offer cable channels such as CNN, HBO, ESPN and regional sports networks. The exception is Bloomberg TV financial news channel, which reached a deal in which Aereo is paying an unspecified fee. Cable lineups typically have hundreds of channels,

compared with a few dozen for Aereo.

Among the 22 markets Aereo announced in Las Vegas on Tuesday for this spring's expansion are Atlanta, Austin, Baltimore, Boston, Chicago, Cleveland, Dallas, Denver, Detroit, Houston, and Philadelphia. Aereo estimates that the service will reach nearly 100 million potential customers.

After that, Aereo plans to add more cities a few times each year.

Aereo's early investors include media titan Barry Diller's IAC/InterActiveCorp, which owns Match.com, Ask.com and other websites. On Tuesday, Aereo said it has closed on a second round of financing, worth \$38 million and led by IAC and Highland Capital Partners.

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