

Internet TV case: US justices skeptical, concerned

April 23 2014, by Mark Sherman



Videojournalists set up outside of the Supreme Court in Washington, Tuesday, April 22, 2014. The court is hearing arguments between Aereo, Inc., an internet startup company that gives subscribers access to broadcast television on their laptops and other portable devices and the broadcasters. (AP Photo/J. David Ake)

Grappling with fast-changing technology, U.S. Supreme Court justices debated Tuesday whether they can protect the copyrights of TV broadcasters to the shows they send out without strangling innovations in

the use of the internet.

The high court heard arguments in a dispute between [television broadcasters](#) and Aereo Inc., which takes free television signals from the airwaves and charges [subscribers](#) to watch the programs on laptop computers, smartphones and even their large-screen televisions. The case has the potential to bring big changes to the television industry.

There was a good measure of skepticism about Aereo's approach, sometimes leavened with humor. Chief Justice John Roberts declared at one point: "I'm just saying your technological model is based solely on circumventing legal prohibitions that you don't want to comply with, which is fine. I mean, you know, lawyers do that."

But several justices expressed concern that a ruling for the broadcasters could hamper the burgeoning world of [cloud computing](#), which gives users access to a vast online computer network that stores and processes information.

Justice Stephen Breyer said the prospect makes him nervous. "Are we somehow catching other things that would really change life and shouldn't?" Breyer asked.

Paul Clement, representing the broadcasters, tried to assure the court it could draw an appropriate line between Aereo's service and cloud computing generally. People who merely retrieve what they have stored should have no reason to worry, Clement said.

But David Frederick, representing Aereo, said the "cloud computing industry is freaked out about the case" because it sees its \$10 billion investment at risk if the court were to hold that anytime music or an image is stored online and then retrieved, the copyright law would be implicated.



A videojournalist sets up outside of the Supreme Court in Washington, Tuesday, April 22, 2104. The court is hearing oral arguments between Aereo, Inc., an Internet startup company that gives subscribers access to television on their laptops and other portable devices and the over-the-air broadcasters. (AP Photo/J. David Ake)

The discussion veered between references to Roku, a TV streaming device, and other high-tech gadgets on the one hand, and analogies to coat-check rooms and valet parking in an effort to make matters more understandable on the other. There was even Breyer's quaint reference to a "phonograph record store."

Aereo's service starts at \$8 a month and is available in New York, Boston, Houston and Atlanta, among 11 metropolitan areas. Subscribers get about two dozen local over-the-air stations, plus the Bloomberg TV financial channel.

In each market, Aereo has a data center with thousands of dime-size antennas. When a subscriber wants to watch a show live or record it, the company temporarily assigns the customer an antenna and transmits the program over the Internet to the subscriber's laptop, tablet, smartphone or even a big-screen TV with a Roku or Apple TV streaming device.

The antenna is only used by one subscriber at a time, and Aereo says that's much like the situation at home, where a viewer uses a personal antenna to watch over-the-air broadcasts for free.

Chief Justice Roberts repeatedly asked Frederick whether the tiny antennas existed for any reason other than to avoid paying the broadcasters for their content. "Is there any reason you need 10,000 of them?" Roberts said at one point. He suggested that it might not affect his view of the case if there was no other reason.

But Frederick said it was much cheaper for Aereo, backed by billionaire Barry Diller, to add equipment as it grows, rather than start with a single large antenna.

Broadcasters including ABC, CBS, Fox, NBC and PBS sued Aereo for copyright infringement, saying Aereo should pay for redistributing the programming the same way cable and satellite systems must or risk high-profile blackouts of channels that anger their subscribers. Some networks have said they will consider abandoning free over-the-air broadcasting if they lose at the Supreme Court.



In this July 7, 2010 file photo, media billionaire Barry Diller attends the annual Allen & Co. Media summit in Sun Valley, Idaho. Diller is the financial backer of Aereo Inc., an Internet startup company that gives subscribers access to television programs on their laptop computers, smartphones and other portable devices. Broadcasters say Aereo is essentially stealing their programming by taking free television signals from the airwaves and sending them over the Internet without paying redistribution fees. The Supreme Court will hear arguments in the case Tuesday, April 22, 2014. (AP Photo/Nati Harnik, File)

The broadcasters and their backers argue that Aereo's competitive advantage lies not in its product, but in avoiding paying for it.

There are signs people are starting to forgo pay-TV subscriptions by relying on Internet services such as Netflix and Hulu Plus for television shows. A service that offers live television, as Aereo does, could make such cord-cutting even more palatable. A study last year from GfK

estimated that 19 percent of TV households had broadcast-only reception, up from 14 percent in 2010.

Broadcasters worry they will be able to charge cable and satellite companies less if they lose subscribers. But Aereo argues that [broadcasters](#) would benefit from increased advertising revenue from increased viewership. The company says many of its subscribers are under 30 and have never had cable service.

A decision is expected by late June.

The case is ABC v. Aereo, 13-461.

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