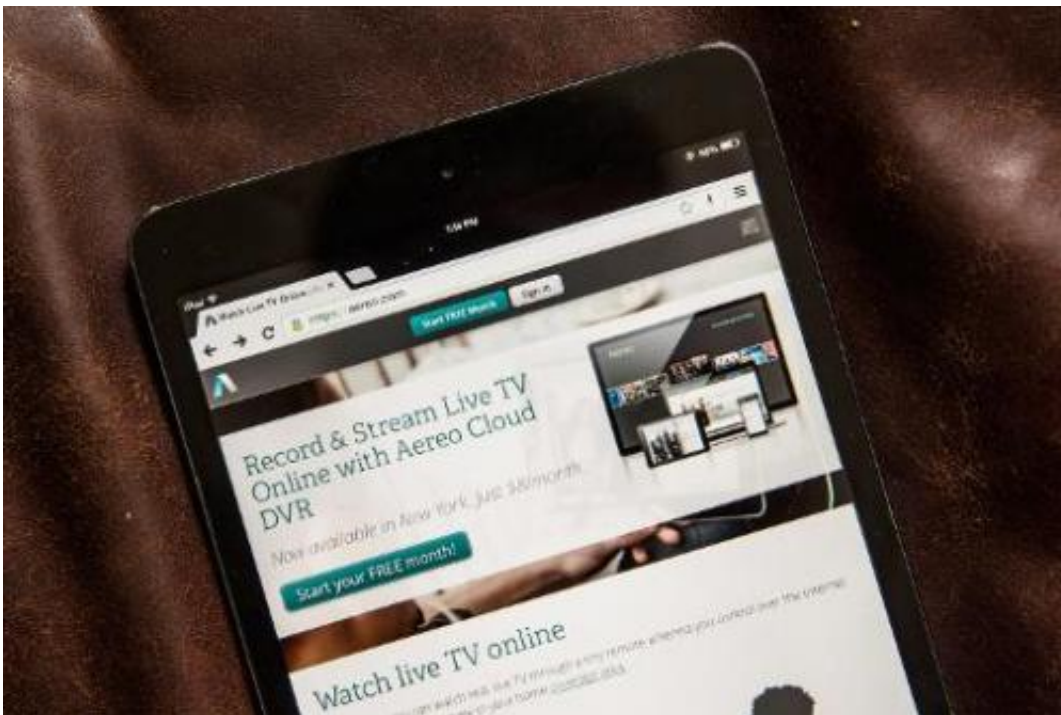


US Supreme Court rules against online TV startup Aereo (Update)

June 25 2014, by Rob Lever, Chantal Valery



Aereo.com, a web service that provides television shows online, is shown on an iPad Mini, on April 22, 2014 in New York City

A startup which captures over-the-air television for Internet viewing violates copyright laws, the US Supreme Court said Wednesday in a landmark ruling affecting the tech and TV industries.

The court ruled 6-3 that Aereo illegally retransmits broadcast signals,

dismissing claims that its tiny personalized antennas merely allow customers to watch or record what would be free TV programs.

Some major tech groups had argued for Aereo, saying its innovative technology opened up more choice for consumers, while the television industry maintained the service was simply theft of its programs.

Justice Stephen Breyer wrote in the majority opinion that Aereo effectively operates like a cable company and must therefore pay for broadcast rights.

Breyer said the case "makes clear that Aereo is not simply an equipment provider" but that its "activities are substantially similar to those of the (cable) companies."

"Aereo sells a service that allows subscribers to watch television programs, many of which are copyrighted, almost as they are being broadcast," he wrote in the opinion.

The top US court reversed a lower court decision that had been in favor of Aereo, and sent the case back for further proceedings, which could determine penalties.

At stake are billions of dollars in fees paid by cable and satellite firms, which Aereo circumvents, in what could be the most significant copyright case in decades.

Aereo, which is backed by media mogul Barry Diller, launched in early 2012 in the New York area and was immediately sued by the major broadcast networks—ABC, NBC, CBS and Fox—for copyright infringement.

The company, which is expanding to other cities, says its actions are

legal because it is not rebroadcasting, but giving subscribers a personal antenna in its New York warehouse that enables them to watch live TV or record it for later viewing on computers or mobile devices.

Even though consumers may watch broadcast television for free with their own antennas, a cable or satellite firm which retransmits to a larger group must pay fees to broadcasters.



Aereo CEO Chet Kanojia leaves the US Supreme Court after oral arguments on April 22, 2014 in Washington

Struggling with the cloud

The justices struggled with the case because of concerns that a ruling against Aereo could hurt other kinds of Internet firms, notably cloud service providers which store content for later viewing.

Breyer wrote however that "we cannot now answer more precisely how... (the decision) will apply to technologies not before us."

But David Sohn at the Center for Democracy and Technology said the case leaves unanswered questions for the tech sector.

"While the decision doesn't directly undermine cloud computing, it leaves open significant questions about the legal foundations of cloud-based services," Sohn said.

In a dissenting opinion, Justice Antonin Scalia said Aereo merely provides a convenient way for Internet users to access what would be free broadcast television.

Scalia wrote that Aereo "assigns each subscriber an antenna that—like a library card—can be used to obtain whatever broadcasts are freely available... The key point is that subscribers call all the shots."

The ruling eases a major concern of the cable and broadcast industries that consumers could bypass their paid services.

Walt Disney Co. which owns the ABC network suing in the case, said it was "gratified the court upheld important copyright principles that help ensure that the high-quality creative content consumers expect and demand is protected and incentivized."

Rupert Murdoch's 21st Century Fox said the decision "ultimately is a win for consumers," adding it "ensures that real innovation in over-the-top video will continue to support what is already a vibrant and growing television landscape."

'Chilling' for tech sector

Aereo founder and chief executive Chet Kanojia called the ruling " a massive setback for the American consumer," adding that it "sends a chilling message to the technology industry."

"We will continue to fight for our consumers and fight to create innovative technologies that have a meaningful and positive impact on our world," he said.

Ed Black of the Computer & Communications Industry Association, which represents big tech firms including Google, decried "a disappointing interpretation of the law for everyone from TV watchers to Internet users to innovators."

"Aereo offered customers a way to cut the cord on expensive cable bills, and the Supreme Court has just pulled the plug on that," Black said.

Independent telecom and media analyst Jeff Kagan said the victory may be short-lived for the industries.

"Cable television and networks should be happy about this win, but they should also now be awake because there will be other significant challenges from new competitors," Kagan said.

"Prices must come down and customer care must be top of mind."

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