

## A One-Sided Fight

# The Heavy Hitting Cost of Unauthorized Pay-Per-View Broadcasts

By Bruce Beard and Andrea Person

**U**FC fighting, cage fighting, and professional boxing are sports known for their action and intensity. The action inside the ring is intense and full of surprises, but often the biggest surprise occurs off camera when cable operators receive a notice after the event that a bar or other commercial establishment showed the event without authorization. The notice often comes with quite a punch from the rights holder – a claim of damages reaching high into the six figures and a demand for reimbursement.

The issue? Unauthorized event broadcasts at bars and restaurants across the country. Generally, to receive a pay-per-view event like a UFC fight a commercial establishment must purchase event rights at a special license fee determined by the capacity of the bar. Because of the demand for these events, license fees are high. While most commercial venues pay premium rates to show the fights, other venues illegally access the feed without paying the commercial rate. This may be done by tampering with the cable set-top box, moving a residential set-top box to the bar, tricking a customer service representative, or inadvertently authorizing the program by the operator. Unfortunately, if the unauthorized viewing occurs, the fight becomes extremely one-sided against the cable operator.

To protect their rights, license holders have investigators in the field looking for venues that are breaking the rules. Establishments that are caught making unauthorized broadcasts and the cable operator providing the feed are at risk for serious liability under federal anti-piracy law. Fines for willful unauthorized broadcasts can fetch over \$100,000.00 per violation in fines plus attorney's fees.

As noted, the cable operator retransmitting the signal risks sanctions too. Under federal anti-piracy law, any person who is receiving, transmitting, or assists in receiving or transmitting an unauthorized transmission can be liable. The law does not require a company or a person to intend to violate the law so companies that transmit feeds without knowing that they are transmitting the feeds are still respon-

sible for fines. Potential penalties for parties that do not knowingly transmit content are more limited, but can still add up to a big bill. Fines range anywhere from \$250 to \$10,000.00 per violation, plus attorney's fees and investigative costs.

So how do you, the cable operator protect yourself from liability? We recommend the following to protect your company from expensive fights.

- **Prevent.** When negotiating license agreements with content owners, include provisions limiting your company's liability if an unauthorized broadcast occurs. Know the restrictions in your pay-per-view contracts.
- **Secure.** Take steps to ensure commercial customers cannot gain access to unauthorized pay-per-view events including set-top box security measures and training customer service representatives and technicians.
- **Protect.** Educate your commercial customers about the rules. Also, require commercial customers to indemnify your company if they access pay-per-view services without authorization by including language in your company's commercial service agreement.
- **Monitor.** Review commercial account bills and look for unauthorized pay-per-view events.
- **Act.** If a customer receives pay-per-view content without paying for it, take action immediately.

These fines can hit hard. Make sure your company is prepared to stay out of the fight. □

### About the Authors

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