

When C-SPAN Met YouTube

■ How the public-affairs network came to liberalize its copyright policy for the 21st century.

By Andrew Noyes

Tech-savvy politicians, bloggers, and citizen-journalists of all stripes with an appetite for online video can thank political jester Stephen Colbert and House Speaker Nancy Pelosi, D-Calif., for catapulting C-SPAN into a new era.

The cable-industry-financed public-affairs network, whose three television channels are available in a combined 184 million households, recently decided after some haranguing to expand access to its repository of footage from congressional hearings, federal agency briefings, and White House events.

But the path toward C-SPAN's new copyright policy, which allows the noncommercial copying, sharing, and posting of its video with attribution, was slow and deliberate and had a few bumps along the way. Colbert and Pelosi were two big bumps—or “bookends,” as C-SPAN Co-President Rob Kennedy likes to call them.

The comedian, whose satirical “news” program on Comedy Central, *The Colbert Report*, feeds off of Washington's foibles, entertained a few thousand tuxedoed scribes and their guests at the White House Correspondents' Association Dinner last April. Standing just yards from President Bush, Colbert hurled barbs at the commander-in-chief, his confidants, and the Fourth Estate.

Although Colbert's act got a lukewarm reception from his audience and the mainstream media, footage of the performance, which was aired live and rebroadcast several times by C-SPAN, became an Internet phenomenon almost overnight. Clips of the event permeated the blogosphere within days. Then C-SPAN, a nonprofit, began selling digital videodiscs of the event and inked a special distribution deal with Google, whose 24-minute version has since received 3.7 million views.

C-SPAN sent takedown notices to popu-

lar video-sharing sites such as *YouTube*, which was later bought by Google for \$1.65 billion, and *iFilm*, whose users posted the Colbert performance without C-SPAN's permission. The network also issued a statement explaining that “C-SPAN-produced programming is protected by copyright in the same way that the video of any other news network is protected.”

“Colbert was the incident that really brought home to us not only the presence of *YouTube* but the different ways it could be put to use,” Kennedy said during a March 13 interview with *National Journal's Technology Daily*.

It was the first time that the public-affairs network had a serious issue with the popular site. But, as the 2006 midterm elections approached, more unauthorized C-SPAN footage turned up there and elsewhere on the Web, he said. Kennedy recognized that the network's policies were “rooted in an earlier era” and needed to be reworked for the 21st century, so his staff got to work.

Then the controversy involving Pelosi broke last month as the network's board was deliberating its new policy. The brouhaha began when the House Republican Study Committee issued a press release claiming that the speaker had violated copyright law on her new blog by “pirating” more than a dozen C-SPAN clips.

Lawyers for Pelosi and the network determined that the video was in the “public domain” because it was footage of House floor proceedings that was filmed with government-owned cameras. All House and Senate floor video “belongs to the American people,” a C-SPAN spokeswoman said. The RSC promptly issued a retraction.

Days later, however, C-SPAN asked Pelosi to remove from her blog a video of testimony on global warming that she gave before the House Science and Technology Committee. That hearing, unlike the floor activity, was captured by the network's lens and belonged to C-SPAN. Pelosi's blog

simply replaced the clip with material filmed by the committee's own camera.

The Colbert and Pelosi incidents arguably bruised C-SPAN's public image. John Palfrey, who heads Harvard University's Berkman Center for Internet and Society, said that artistic creators need to be compensated for their work, “but so, too, must we make space in our society for serious debate and commentary.” He added that “intellectual-property law shouldn't be used to stifle that debate.”

■ Stephen Colbert and Nancy Pelosi



■ Both of them were key motivating factors in C-SPAN's recent decision to allow more online sharing of its footage.

Julie Barko Germany, deputy director of George Washington University's Institute for Politics, Democracy, and the Internet, noted that Web video “truly has become the Wildest West of the Internet.” She added that “everyone wants video” because it is seen as the medium of the moment.

The controversies separately prompted critics to complain that C-SPAN was employing an intellectual-property regime that was too harsh for the country's political network of record. Others thought that its policy was just plain puzzling or ambiguous.

C-SPAN General Counsel Bruce Collins fired back, telling *Technology Daily* that the network's policy on House and Senate floor footage is “clear as a bell.” (Because

the footage is captured by government-owned cameras, anyone can use it, including C-SPAN. C-SPAN has never tried to enforce its copyright on floor coverage.) Collins admitted that there was ample confusion over C-SPAN's larger copyright claims on content that is created and produced in-house. That was "something structural" for the network to address, he said.

Enter Internet watchdog Carl Malamud. The Internet Multicasting Service founder wrote a scathing letter to C-SPAN CEO Brian Lamb on February 27 criticizing the enforcement actions and pointing out that Lamb's network is "a publicly supported charity," not the Walt Disney Co. Malamud also offered—or perhaps threat-

important" to "support the spread of political commentary and speech."

Under C-SPAN's new terms, the "non-commercial" users who may post the network's video of hearings, agency briefings, and White House events include bloggers, individual file-swappers, and various citizen-journalists whose sites accept advertising and other forms of revenue, Kennedy said. " 'Commercial' means a direct connection between revenue that's produced and our video," he said. Subscription or pay-per-view sites, for example, still cannot use C-SPAN video.

C-SPAN's copyright policy will not change for studio productions, nonfederal events, campaign and political-event coverage, and feature programming such as *Book TV*.

Liberalizing copyright restrictions on some of C-SPAN's content was the first step in an ongoing process, Kennedy said. In the months to come, the network will make more strides to broaden the availability and accessibility of its videos.

First, the network will open up its vault of digitized recordings so that users can search for and stream hundreds of thousands of hours of footage. The streaming video will be technologically protected to prevent viewers from grabbing files directly from the site, Kennedy said.

On April 1, C-SPAN will unveil new, lower prices for DVDs of the content. Currently, some videos cost more than \$100, but prices could plummet as low as \$19.95, Kennedy said. The purchased DVDs will let users clip, manipulate, and post content online in a noncommercial way with attribution, he said.

Kennedy said that the "vast majority" of C-SPAN footage that Internet users want to post and share will be "programming from this point forward," rather than old events on DVD. Under the new rules, users are free to personally record and post those new clips online, he said.

In the long run, C-SPAN wants to make direct video downloads easier for users. The question is whether the network should partner with Google-owned *YouTube* or a similar site, or should offer downloads itself, a spokeswoman said. C-SPAN has had preliminary discussions with several major players in the online video market, but Kennedy would not reveal whether *YouTube* is a contender.

In addition to its video expansion plans, C-SPAN will significantly build out its *CapitolHearings.org* Web site as a "one-stop resource for congressionally produced webcasts of House and Senate committee and subcommittee hearings." The initial expansion of the site, which was launched in 2001 to aggregate live audio streams of Senate hearings, will begin immediately, Kennedy said.

Popular liberal Web pundit Markos Moulitsas does not think that the new policy goes far enough. "These are government hearings. They should be in the public domain, not 'owned' by C-SPAN, no matter how liberal the license might be," he wrote on his *Daily Kos* blog. Moulitsas suggested that Congress should "kick out C-SPAN's cameras" from committee hearings and force the panels to use government-owned equipment. That way, those deliberations are in the public domain, he said.

Malamud, the man credited with creating the first Internet radio station, believes that C-SPAN did "a wonderful thing" and "way more than they had to do." But video-related problems persist on Capitol Hill, he said. The legislative branch needs to "meet C-SPAN's gift by committing to providing broadcast-quality video from every congressional hearing for download on the Internet," Malamud said. "Anything less just doesn't cut it."

The House could make broadcast-quality video of all of its hearings and floor debates available for such downloading by the end of the 110th Congress, Malamud told Pelosi in a report that he sent to her this week. He offered a number of reasons why he thinks that Congress should take advantage of the "network effect" of having data available in bulk for others to work with. "Technically speaking, this is a 'no-brainer.' This is simply a matter of will," Malamud said.

After all of this copyright commotion, Colbert's pugnacious character on *The Colbert Report* might marvel at C-SPAN's resolve and "truthiness"—a term that the comedian coined to describe a "truth that comes from the gut, not books." The proof, however, is in the pudding, and Internet watchers will indubitably be tracking how the new and improved C-SPAN carries out its mission. ■

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ened—to buy the network's whole catalog of congressional hearing videos and post them online for public use. He put the cost of the more than 6,000 DVDs at about \$1 million.

Within about a week, C-SPAN's board of directors announced on March 7 that it "enthusiastically endorsed" the liberalization of the network's copyright policy, and a new intellectual-property regime was born.

In crafting the revised rules, C-SPAN borrowed its approach from San Francisco-based Creative Commons, an initiative dedicated to making creative work legally available for others to build upon and share. Creative Commons CEO Lawrence Lessig, a Stanford University law professor, called C-SPAN's change of heart "critically