Pay TV piracy and codes of conduct

Competition between technology companies and chasing pirates is one thing; sabotaging rivals is another altogether.

Neil Chenoweth

Pay television piracy came to Australia in the first week of May 1999 on a South African Airways flight from Johannesberg. No one knew about it. At least, no one who mattered.

Then Telstra chief Ziggy Switkowski didn't hear about it – and he probably wouldn't have worried if he had. He told *The Australian Financial Review* this week that Telstra's half-share in the then struggling pay TV operator Foxtel occupied less than 5 per cent of his time. It was "a rounding error" in the scale of Telstra's massive telephone business.

Former Optus Vision chief Geoff Cousins didn't know anything about it either – but then, as he pointed out, he had left Optus two years before – so how would he possibly have known?

Kim Williams, now News Limited chief, was running the troubled Fox Studios at the time. John Porter was busy battling huge start-up losses at Austar.

Chris Anderson, the Optus chief executive, likewise had bigger issues to worry about than the solid, somewhat dishevelled figure of German hacker Rolf Deubel as he walked out of the arrivals hall at Tullamarine airport, carrying his laptop.

But someone was watching for Rolf.

For there was – and still is – an arcane world in Australia, a subculture peopled by electronics enthusiasts, hackers and pay TV pirates who fly below the radar.

As do the people who chase them. They share this hidden world with the pirates, playing a global game of hide and seek. They are former spies and police officers, and sometimes ex-pirates themselves.

All pay TV operators have security units, but the one that pirates fear is Operational Security, a unit attached to an arm of Rupert Murdoch's global empire, called NDS.

One of the powerful images from the BBC *Panorama* program on pay TV piracy shown in Australia on SBS on April 3 is the gloomy building in Cornwall, in south-west England, that was The House of Ill Compute. It was from this building that Lee Gibling – a man that NDS says was merely an informant – ran The House of Ill Compute website (thoic.com), paid for and controlled by NDS, which carried the secret codes of News Corporation rivals.

It was the heart of a global enterprise in which the codes that unlocked pay television programming all over the world – including Australia – were available to anyone who clicked on to thoic.com.

News Corp and NDS have consistently and vigorously denied the allegations, many of which they say have been tested in courts and disproved.
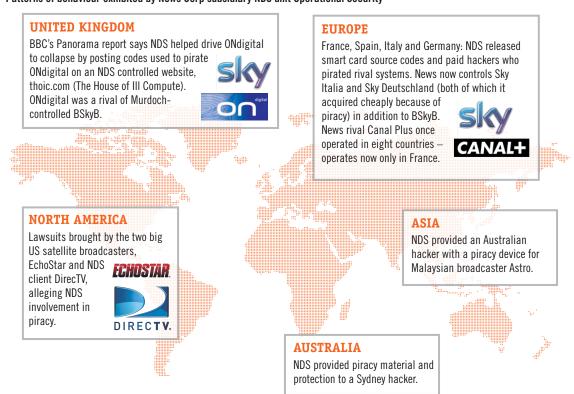
This raises the question, does any of this matter?

The *Financial Review* has pursued a complicated story about the smartcards that fit into a set-top box to unlock pay TV programming. Using a smartcard is so routine that no one thinks twice about it.

Why is it important? Because data

security is the central issue of our age. Our lives are built around electronic locks that secure our bank accounts, our credit cards, our correspondence, our private documents, our work records.

All of these things are vulnerable to attack by hackers. That prospect is frightening enough.

But if the threat to our electronic locks comes not from backroom hackers but from a major international corporation using the weight of its huge resources to break these locks, the risks become incalculable.

And this is where the saga of NDS Operational Security – OpSec – is so worrying, because around the world, major pay TV operators have claimed that the NDS team went beyond the line of chasing pirates – they sabotaged their rivals.

In the course of following up these allegations in meetings in the United States, Canada and in three trips to Europe, the *Financial Review* spoke to former NDS people who acknowledged that the source codes of the security smartcards made by rival companies had been released to pirates – but argued (rather questionably) that everybody did it.

Another version of this argument is to say that this is just robust competition between technology companies in an area that no one else cares about – business as usual, as one analyst put it.
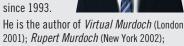
One difference is that the bouts of piracy that NDS helped trigger often assisted the broader corporate objectives of its parent, News Corporation.

In 1998, a month before News made a billion-dollar settlement to Charlie Ergen's US EchoStar group following failed merger talks, the codes for EchoStar cards appeared on a Canadian website.

In 1999, source codes for French broadcaster Canal Plus were leaked to the same Canadian website by NDS three weeks after Canal Plus broke off merger talks with Murdoch.

In 2000, NDS withheld using a "magic bullet" electronic solution that would disable more than 200,000 pirate cards of its client

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Gold Walkley for Journalism 2004
Walkley Award Non-Fiction Book 2006
Qld Premier's Award Non-Fiction Book 2006
Walkley Award Business Journalism 2008

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DirecTV, at a time when News was manoeuvring to bid for DirecTV.

Much of this information is revealed in an archive of more than 14,000 emails recovered from the hard drive of the computer of a senior NDS executive. The emails, obtained by the *Financial Review*, follow internal correspondence between NDS employees, and to and from NDS operatives and their informants.

Many of the emails have been posted on the *Financial Review*'s website, afr.com.

The NDS game plan in Australia is harder to fathom. Rolf Deubel, known online as MadMax, certainly had no idea what was at stake when he arrived in Australia in May 1999.

These days, Deubel is persona non grata and can no longer come to Australia because of his pirate activities. But in September 2003, the *Financial Review* spent two days interviewing Deubel about how he introduced pay TV piracy to Australia in 1999, and his nightmare experience in a Bangkok prison.

At the time, NDS was in fierce competition around the world – from Italy to Germany, Greece, China and Australia – with Irdeto, a Dutch/South African security system, and NDS marketing people were desperate to show Irdeto had problems.

It was certainly in NDS's interest to show that the Irdeto cards used in Australia by Optus, Austar and Foxtel Satellite had been pirated. This is legitimate commercial practice. But any move to promote or enable such piracy is not – and piracy, once it gets a foothold, is hard to stamp out.

News owns 25 per cent of Foxtel, so any piracy would hurt News's interests in the short term. But News and Telstra were in bitter conflict.

While Foxtel was reporting tens of millions of dollars in operating losses, News and its partner, Kerry Packer's Publishing and Broadcasting Ltd, were making similarly large profits from the contracts to sell football coverage to Foxtel through Fox Sports.

At the same time, News and PBL were pressuring then prime minister John Howard to force Telstra to sell out of Foxtel.

Deubel's appearance in Australia was profoundly disturbing. NDS had already picked up on his Millenium Group. NDS had a Melbourne informant, code-named Joyce, who had obtained a copy of Deubel's software from a contact code-named Tooley. UK security chief Ray Adams proposed having an NDS hacker rewrite the software into a completely different form to protect Joyce.

NDS's Asia-Pacific security chief, Avigail Gutman, emailed Adams that "it may even be to our benefit if these came out on the market first – taking the heat off Joyce and also taking away from Tooley's unique standing".

NDS chief executive Abe Peled has told the *Financial Review* this referred only to showing the pirate software that NDS had refashioned into a new product to Irdeto and its Australian clients – apparently claiming that this was a new pirate hack.

However, hours later, Gutman emailed Adams: "A release from Europe sounds good. Here's the software."

The *Financial Review* has found no evidence in the emails that NDS ever provided such products to Irdeto. In context, it appears Gutman intended the pirate software to be released on the internet.

In fact, a version of the Millenium Group's Irdeto hack for Australia was already posted on The House of Ill Compute, and NDS hacker Andy Coulthurst explained to Gutman how the codes on the NDS pirate website worked.

Deubel was subsequently arrested in Bangkok in a joint operation between Irdeto and NDS in September 1999. However, a month later, Gutman and Adams were discussing how to engineer Deubel's release on the grounds that it would further piracy of yet another system, Seca, used by Canal Plus.

Gutman had identified a Sydney hacker, David Cottle, as the best prospect to succeed Deubel in developing a hack for Irdeto in Australia.

Gutman protected Cottle, dissuading Irdeto from prosecuting him: "The objective of any current action would be to eliminate Cottle as a threat to any NDS systems but without disturbing his other hacking activities (as much as possible) … We do not want Cottle in jail until he has a successor for the Irdeto hack."

She provided Cottle with more smartcards to work on when his supply ran low, and when he began to hack News Corp's StarTV service, NDS provided him with a pirate system for a Malaysian broadcaster, Astro, to distract him.

Cottle denies being involved in pay TV piracy and says he did not know that thoic.com, on which he worked as a moderator, was secretly run by NDS.

In mid-2000, when NDS feared Cottle might have been hired by Irdeto, Gutman set Adams to illegally obtain Cottle's telephone records to see who he was talking to.

NDS shared none of this with Foxtel, Austar or Optus, and actively misled StarTV. Little wonder they knew so little about it.

Or that Telstra, in January 2001, happily signed a new contract with NDS for almost $1 million, on top of the $20 million or so Foxtel already paid for NDS smartcards. It was to provide Foxtel with protection.

By 2002, piracy was costing the Australian pay TV industry $50 million a year, almost all of it targeted at Irdeto cards.

GOING ROGUE AROUND THE GLOBE

Patterns of behaviour exhibited by News Corp subsidiary NDS unit Operational Security

UNITED KINGDOM
BBC's Panorama report says NDS helped drive ONdigital to collapse by posting codes used to pirate ONdigital on an NDS controlled website, thoic.com (The House of Ill Compute). ONdigital was a rival of Murdoch-controlled BSkyB.

EUROPE
France, Spain, Italy and Germany: NDS released smart card source codes and paid hackers who pirated rival systems. News now controls Sky Italia and Sky Deutschland (both of which it acquired cheaply because of piracy) in addition to BSkyB. News rival Canal Plus once operated in eight countries – operates now only in France.

NORTH AMERICA
Lawsuits brought by the two big US satellite broadcasters, EchoStar and NDS client DirecTV, alleging NDS involvement in piracy.

ASIA
NDS provided an Australian hacker with a piracy device for Malaysian broadcaster Astro.

AUSTRALIA
NDS provided piracy material and protection to a Sydney hacker.

SOURCE: FINANCIAL REVIEW

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