

PAY TV PIRACY

Financial Review Special Investigation

The News story that kept

When the British media got wind of a UK piracy site being funded by News Corp's secret unit, the media giant went into damage control but it couldn't get its story straight, writes **Neil Chenoweth**.

Rupert Murdoch's media empire was ready to fight back against claims that it promoted television piracy against its rivals, and the emails were flying back and forth between News Corporation executives in Britain and the office of the chairman in New York.

It was March 2002 and the idea that a \$40 billion international media group such as News Corp could be engaged in wholesale corporate espionage seemed so incredible that it beggared belief — and News was keen to put out a statement to dismiss it.

But behind closed doors at News, the story kept changing.

On March 14, three days after French media group Canal Plus had sued News and its technology arm NDS Ltd for \$US1 billion damages for video piracy, *The Guardian* newspaper in Britain revealed that NDS had been funding a British piracy website, thoi.com. And that thoi.com had targeted a News Corp rival in the UK, ITV Digital, which was launched in 1998 as ONdigital and rebranded in 2001.

Piracy had helped cripple ITV Digital, which was now days away from collapse.

It was time for damage control at News and NDS.

Ray Adams, the former Metropolitan Police commander who set up thoi.com (The House of Ill Compute) for NDS, immediately contacted former thoi.com moderator Nathan Savage to ensure his silence: "As we discussed you do not have any information. All you did was site design."

At the same time, Adams, who was European chief of the secretive Operational Security unit attached to NDS, was arranging a £5000 "loan" to the man who ran the thoi.com website, Lee Gibling, who was in hiding in Turkey.

When an NDS lawyer blocked the payment as "highly inappropriate", Adams was furious.

"As you know I successfully kept this man away," Adams complained in an email. "He is being actively sought by C+, private detectives, individuals and also more importantly by the BBC *Panorama* team re THOIC and ITV Digital."

"As we have abandoned him I fully expect that he will consider himself free to speak with whomever approaches him. I did not want this."

The emails are part of an archive of 14,400 that were recovered from the hard drive of Adams' computer. A selection of the emails can be accessed via *The Financial Review* website at afr.com.

Days after Adams sent the email to the NDS lawyer, Adams' boss at Operational Security, Reuven Hasak, a former spymaster who had been the deputy head of the Israeli secret police Shin Bet, approved £8000 in payments to Gibling. Another Operational Security operative would carry the money to Turkey to hand it over. It would not be the last payment.

Within hours of the thoi.com story breaking, News International had engaged British master spin doctor Tim Bell. In a meeting with NDS corporate communications chief

Peter Ferrigno on March 14, Bell ticked off the steps News needed to take to pacify stock analysts, investors and government regulators.

But his advice to Ferrigno on how to handle the media was blunt: don't say anything.

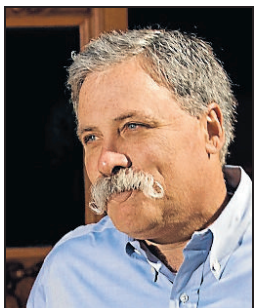
"The only thing that might be useful here would be to get a very senior NewsCorp executive — Rupert himself or maybe [chief operating officer] Peter Chernin, to refer to the lawsuit . . . and generally dismiss it as a frivolous or ridiculous attempt by a couple of media companies who are having some rotten financial results at the moment and trying to blame them on



News Corp general counsel Arthur Siskind was on the NDS board.



As was News finance director David DeVoe.



In 2002, current News Corp president Chase Carey, another NDS board member, was deputy to COO Peter Chernin.

a successful competitor," Ferrigno reported back to News executives on March 15.

Murdoch and Chernin both stayed clear of the controversy, despite the close historical role the Office of the Chairman had overseeing NDS; Lachlan and James Murdoch were both on the NDS board at various times, along with News general counsel Arthur Siskind, finance director David DeVoe and Chernin's deputy, Chase Carey, but none of them were commenting.

There is nothing in the emails linking the NDS board to the company's covert activities. The AFR does not suggest board members were aware of such activities.

It was left to NDS chief executive Abe Peled, the pugnacious former IBM executive, to denounce Canal Plus for an "outrageous and baseless" lawsuit to cover its own inferior technology.

By April 2, Peled was ready to hit back with a statement headed, "Regarding Misleading Articles".

The first draft said NDS was only one of several security companies that had been involved with thoi.com as "part of normal intelligence-gathering activities".

It was never proved that codes to access ITV Digital had been published on the thoi.com site, which had been closed for over a year, and NDS had never admitted to funding other piracy websites.

In fact, offers by NDS to help ITV Digital fight piracy had been rejected, the statement said.

For eight days, drafts of the statement bounced back and forth between News executives in London and New York as NDS claims were inflated, then watered down.

By April 10, as Adams continued negotiations to make the payment to Gibling, NDS was saying that no ITV Digital codes had been posted on thoi.com "to our knowledge".

Of crucial importance, NDS now maintained that the thoi.com website was closed in early 2000, a year earlier than the first draft said.

Neither statement was true. Gibling had been sending CDs with copies of everything on thoi.com to NDS Israel. Thoi.com had closed down in May 2001 after hackers unmasked the link to NDS, though the site went back on line until at least August 2001.

Today, NDS stresses that Gibling was only ever a paid informant and was never an employee.

However, the emails obtained by the *Financial Review* show Adams in January 2000 discussing Gibling's proposed new deal: while Gibling would not be a direct employee, he would be paid £2500 salary a month (with no tax deducted) under a 12-month contract, plus contributions to a health scheme, while another 4 per cent of his salary was paid into a pension scheme.

Together with the rent of a property and running costs for the site, NDS paid £75,000 a year to run thoi.com. While NDS says it did not run, control or moderate the website, the Operational Security unit constantly monitored thoi.com, directed Gibling on how to conduct it, and



Lee Gibling was not a direct employee of NDS, but was paid a tax-free salary,

installed software to have thoi.com files automatically transferred to CDs before being sent to NDS.

With NDS staff taking a leading role, Gibling cut back on his own monitoring of the site. "Now the complete contents are sent to Andy [Coulthurst at NDS] I tend to just skim through."

Indeed, Ray Adams had a turf war with the Asia-Pacific head of NDS Operational Security, Avigail Gutman, over who was calling the shots at thoi.com: "I created THOIC and still consider it my baby," Adams declared in another email.

Conditional access

NDS works in the security field called conditional access. It's one of half a dozen companies in the world that encrypt programming by pay TV groups such as BSkyB in Britain, DirecTV in the US and Foxtel in Australia.

The key components in conditional access are the set-top box and the smartcard that holds the key to unlock the encryption.

News Corp has consistently denied any role in fostering pay TV piracy.

From the start, NDS and Operational Security executives had worried what would happen if the thoi.com operation was ever exposed.

Gibling had run a BSB online bulletin board site in Britain in the mid-1990s when the NDS smartcards used to decrypt the BSkyB satellite signal were widely hacked.

Adams recruited Gibling and set him up with a stand-alone website, thoi.com, which would provide a free email service and multiple chat sites for hackers to discuss how to pirate smartcards of all kinds with one exception, any NDS cards.

"Have a look, Thoi is my site," Adams emailed in May 1998 to German hacker Oliver Koemmerling, who was an NDS consultant.

Avigail Gutman pointed out a thoi.com page dedicated to finding secret keys to NDS rivals'

smartcards. It claimed to be the largest key search on the net.

By July 1999, when NDS installed thoi.com on a new US server, the website had almost 200,000 hits a day. Close to 9000 users downloaded 3.4 gigabytes of emails and piracy and hacking files every day — and the site was growing rapidly as Gibling brought other sites under his umbrella.

Gibling had an Australian page on thoi.com, with a closed section for elite Australian hackers called Area 51. He also opened a new website, also controlled by NDS, called aus-sat.com.

At this time, NDS was paying £5000 a month for Gibling and the cost of running thoi.com. Another conditional access company called Irdeto was paying another £1500 a month towards thoi.com costs but Gutman and Adams had ordered Gibling not to provide Irdeto with any useful information from thoi.com.

By December 1999, Adams and Gutman were agreed on "making Lee [Gibling] totally and exclusively ours". Gutman wrote to Adams on December 23 that Hasak supported taking Irdeto out of the thoi.com operation: "We really only need to clear the legal aspect, so as not to put Lee in any risk and so as not to 'embarrass' the company if he is ever exposed."

Gutman was keen for Gibling to charge for access to some thoi.com sites, though she worried that "if he ever gets exposed (God forbid, knock on wood, etc) — does it put NDS in any legal bind we need to think about now?"

If Gibling became an NDS employee, as he wished, "then NDS would be liable for whatever he does", Adams noted.

By now, thoi.com was recording 1.8 million hits a day from hackers all over the world, with up to 2000 emails, and was still growing.

But alarm bells went off in late January 2000.

One of Gutman's Australian informants, George Miller (not his real name), frustrated that he was excluded from Area 51 (the closed