

News Pay TV piracy

From 'big problem' to 'fixable'

Porter changes view on severity

Austar
Angus Grigg

Austar chief executive John Porter conceded on Friday piracy in the pay TV industry was a major issue and may have cost his company up to \$17 million in some years.

"Yeah, look, it is a big number," he told the *Weekend Financial Review*. "I acknowledge that piracy was a significant problem but there is always a fix."

Mr Porter's comments come after *The Australian Financial Review* published a series of articles during the week detailing how a News Corp subsidiary, NDS, promoted a global wave of pay TV piracy in the late 1990s.

Austar and its smartcard provider, Irdeto, were two of NDS's main targets.

On Friday, Austar shareholders voted in favour of a takeover by Foxtel, cementing its dominance of the local pay TV industry.

Despite leaked emails showing a concerted campaign against Irdeto in Australia, Mr Porter said NDS's actions were, at most, "overly aggressive competitive behaviour". He said piracy was "not an endemic long-term problem".

But as recently as 2010, he was labelling piracy a "big problem". In 2003, Kim Williams, who now runs News Ltd in Australia, said it



John Porter says that pay TV piracy may have cost Austar as much as \$17 million in some years.

Photo Rob Homer

"keeps me awake at night" and "undermined the sustainability of our businesses".

Both men lobbied hard to change federal government laws that saw "pay TV piracy" become a specific criminal offence.

Piracy in the pay TV industry is estimated to have cost as much as \$50 million a year.

And in the early years of the previous decade, it was considered rampant.

It was during this period that a secretive unit within NDS, known as Operational Security, was promoting piracy against News Corp's commercial rivals, according to 14,400 emails obtained by the *Financial Review*,

many of which can be read at afr.com.

In one email, the Asia-Pacific head of Operational Security, Avigail Gutman, said she didn't want a Sydney hacker, David Cottle, arrested until he'd completed the Irdeto hack.

"The objective of any current action would be to eliminate

Key points

- ▶ John Porter and Kim Williams lobbied to make pay TV piracy a specific criminal offence.
- ▶ On Friday, Mr Porter said such piracy was 'not an endemic long-term problem'.

Cottle as a threat to any NDS systems but without disturbing his other hacking activities (as much as possible)," Ms Gutman wrote.

"We do not want Cottle in jail until he has a successor for the Irdeto hack."

Austar was one of Irdeto's main clients in Australia. Mr Porter would not comment on the email except to say: "Avigail what's-her-name was maybe a little too excitable."

He also argued that it was in "nobody's interest" to have the Irdeto platform hacked, as it had also provided services to Foxtel's satellite customers.

It should be noted, however, that, at this time, NDS was looking to secure all of Foxtel's smartcard business.

It also came at a time when News Ltd, which owns 25 per cent of Foxtel, was trying to force Telstra to sell or reduce its half-share in the pay TV company.

Any reduction in profit as a result of hacking would have reduced the value of Telstra's stake.

ACMA eyes pay TV piracy claims

From page 1

to appoint the chief executive of the pay TV broadcaster.

"As Sentaor [Stephen] Conroy observed, if anyone has any information which they believe to be about criminal conduct in Australia, they should refer it to the Australian Federal Police for investigation," ACMA chairman Chris Chapman said on Friday.

The regulator's statement comes after *The Australian Financial Review* reported that NDS, a subsidiary of News Corp, had run a global dirty tricks campaign targeting its competitors.

The *Financial Review* also revealed, using an archive of 14,400 emails between NDS personnel, that a secretive unit within NDS had a budget account to provide "a contingency sum for police informants" to "pay them for assistance given to us in our work".

News Corp subsidiary NDS has demanded that the *Financial Review* immediately retract allegations that it had promoted and facilitated piracy in the pay TV industry.

In a letter to *Financial Review* editor-in-chief Michael Stutchbury dated March 29, NDS Group executive chairman Abe Peled said a series of articles this past week revealing a global trail of dirty tricks targeting competitors by NDS's Operational Security unit contained "gross mischaracterisations of the evidence".

News Corp chairman Rupert Murdoch on Friday resumed his defence of the company on social media site Twitter following the piracy allegations aired by the *Financial Review* and the BBC's *Panorama* program. Separately,

PBS's *Frontline* in the US ran a segment titled *Murdoch's Scandal*, exploring the British telephone hacking scandal.

Tweeting on Friday morning, Mr Murdoch wrote: "Proof you can't trust anything in Australian Fairfax papers, unless you are just another crazy."

Mr Peled wrote in his letter that NDS was a leader in the fight against piracy and had assisted law enforcement agencies around the world to bring pirates to justice.

"We demand that you immediately retract your allegations to the contrary," he wrote.

Mr Peled's letter said the *Financial Review* had misrepresented NDS's fight against piracy and its efforts to protect clients' investments, and mischaracterised NDS emails to suggest that NDS encouraged piracy of competitor systems.

The *Financial Review* has been putting detailed questions about NDS operations to NDS and Mr Peled, and to News Corporation and spokesmen since August last year, and more recently to News Corp's chief operating officer, Chase Carey.

In a two-sentence response last August to serious allegations raised in an Italian court, NDS told the *Financial Review*: "We are surprised by your questions."

In response to a further six emails of nearly 3000 words in the past fortnight, NDS replied with two two-paragraph responses stating that NDS had been cleared in all court proceedings. Each reply was accompanied by the same January 2012 press release.

No response was made to detailed questions about whether testimony in the Echostar case by

Operational Security chief Reuven Hasak, when he denied that NDS provided a scheme to provide a pirate device to an Australian hacker, David Cottle, in November 1999, was correct. Emails show that Mr Cottle had the device and was being urged to use it by November 22, 1999.

Mr Peled, in his letter, denies NDS ever had any relationship with Mr Cottle, whom the *Financial Review* alleges was encouraged by those working for NDS to hack into smartcards from a rival provider, "and no evidence suggests otherwise". However, an email from

Mr Saggiori's settlement document specifically excludes any admission of guilt.

Avigail Gutman, Asia-Pacific chief for NDS Operational Security, shows that while she was persuading rival security company Irdeto not to have Mr Cottle arrested, NDS had an ulterior motive: "We do not want Cottle in jail until he has a successor for the Irdeto hack," Ms Gutman wrote.

In February 2000, Ms Gutman arranged to supply Mr Cottle with more than 20 blank cards to assist him in pirating Austar and Foxtel Satellite.

Mr Peled cites as an example of NDS's commitment to fighting piracy an NDS-Irdeto joint operation in September 1999 to

have Rolf Deubel, a South African hacker who introduced piracy to Australia, arrested in Bangkok.

However, in an email exchange with the European head of NDS Operational Security, Ray Adams, Ms Gutman suggests releasing Mr Deubel so that he can spread a hack of the rival Seca cards. Ms Gutman makes it clear this was not to assist Irdeto.

Mr Peled criticises the *Financial Review* for reporting email exchanges between two senior NDS executives who oversaw a US lawsuit against Italian whistleblower and hacker Jan Saggiori.

No response was made to questions whether NDS and News Corp executives believed in 2000 that they had a legitimate case to bring against Mr Saggiori, a hacker who was providing critical evidence against NDS to rival Canal Plus.

In internal emails, NDS executives repeatedly stated that they had no case against Mr Saggiori, that he was joined to the suit merely to pressure him and his parents and to discredit him with Canal Plus.

In his letter to the *Financial Review*, Mr Peled claims that "Jan Saggiori eventually admitted his role in that plot" which was the basis of the lawsuit against Canadian pirates.

In fact, Mr Saggiori's settlement document, co-signed by News deputy general counsel Genie Gavenchak, specifically excludes any admission of guilt: "Nothing contained herein shall be deemed an admission by the Defendant of any breach or violation of any state or federal laws of the United States of America."

Merger goes forward

Andrew White

Austar United Communications shareholders have approved the \$1.9 billion takeover by metropolitan pay TV provider Foxtel with votes of 91 per cent or more in favour.

The two companies are now awaiting approval from the Australian Competition and Consumer Commission, which this week again deferred its decision.

It is considering undertakings from the two companies and their shareholders about the availability of content for competing television services.

Austar chief executive John Porter told shareholders in Sydney that allegations of hacking by the NDS business owned by Foxtel shareholder News Corp were not relevant to the merger and would not figure in ACCC deliberations.

Mr Porter said the Austar regional pay TV service was unlikely to switch its encryption services to NDS if it is allowed to merge with its larger metropolitan rival Foxtel.

He said there was no reason for a merged group to switch the encryption for the Austar service from Irdeto to the NDS service used by Foxtel. The two groups already share a large amount of programming but Mr Porter said running dual encryption systems had "worked well" for the business.

He said it would be an expensive process to switch over and noted that NDS was no longer owned by News, which is a 25 per cent shareholder in Foxtel, alongside James Packer's Consolidated Media (25 per cent) and Telstra (50 per cent).