

Murdoch's News Corporation accused of pay TV piracy

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Rupert Murdoch's News Corporation has been accused of orchestrating a global pay television piracy operation that successfully undermined its rival networks in Britain, the US, Europe and Australia.

The allegations were aired last week on the BBC's "Panorama" program and in a series of articles published by the *Australian Financial Review*. They follow the phone hacking scandal in Britain that remains the subject of a criminal investigation. The accusations of pay TV piracy are potentially even more damaging to News Corporation. While Murdoch's newspapers are central to his political power, his international pay TV interests generate the largest and fastest growing component of News Corporation's profits.

The BBC and *Australian Financial Review* (AFR) focussed on the activities of NDS (News Datacom Services), an Israeli-based software company owned by News Corporation. In the 1990s, NDS established an "Operational Security" group tasked with ensuring the security of Murdoch's burgeoning pay TV interests. It aimed to prevent hackers and criminal gangs from cracking the encrypted codes and "smart cards" that are used to allow paying customers access to certain programs and channels.

Part of this work involved NDS recruiting hackers to crack its competitors' codes and security systems—in itself, not necessarily an illegal activity. NDS employees, however, are alleged to have also distributed the cracked codes on the internet and encouraged the production of illegal smart cards that would allow people to access pay TV networks for free. As a result, it is alleged, News Corporation's rivals lost enormous revenue streams, forcing several of them into bankruptcy.

NDS's Operational Security was headed by Reuven Hasak, a former deputy director of the Israeli domestic secret service Shin Bet, and staffed with former senior police and intelligence operatives. Operational Security's activities, the *Australian Financial Review* noted, are "particularly sensitive" because it "operates in an area which historically has had close supervision by the Office of the [News] Chairman, Rupert Murdoch."

The BBC's "Panorama" suggested that NDS's activities contributed toward the collapse of ITV's digital network in 2002.

The program claimed that NDS's European chief, former British Metropolitan Police commander Ray Adams, organised for ITV's cracked security codes to be posted on a popular web site for hackers called The House of Ill Compute, or Thoic. The web site's operator, Lee Gibling, told the BBC that Adams paid him up to £60,000 a year and provided money for expensive computers and servers. He added that Thoic effectively belonged to the News Corporation subsidiary. "It was NDS," he said. "It was their baby and it started to become more their baby as they fashioned it to their own design."

ITV Digital's former chief technical officer, Simon Dore, told the "Panorama" program that piracy was "the killer blow for the business, there is no question ... we couldn't recover from that." The company's collapse left the lucrative pay TV market open for Murdoch's Sky.

Britain's TV regulator, Ofcom, is currently considering whether Rupert Murdoch and his son James, who has served as a NDS board member, are "fit and proper" to be in control of BSkyB, the company that runs Sky TV. Labour MP Tom Watson has demanded that Ofcom examine the piracy allegations, which he described as "far more serious than phone hacking."

British authorities are likely to scrutinise a NDS payment of £2,000 to the Surrey Police in 2000. NDS insists that this was a “one-off charitable donation”. Internal emails from NDS’s Ray Adams’ computer, secured by the BBC and the *Australian Financial Review*, allegedly indicate that Adams’ NDS deputy and former Surrey police officer Len Withal regarded the payment as part of a wider contingency fund for “police informants”, to “pay them for assistance given to us in our work.”

This incident has emerged following allegations of bribery of police officers by News Corporation’s newspapers in Britain. Last Saturday, the *Independent* also reported that the Surrey Police payment “could be studied by US authorities investigating whether Rupert Murdoch’s conglomerate broke America’s strict anti-corruption laws.”

The pay TV piracy allegations may also affect News Corporation’s interests in Australia. The *Australian Competition and Consumer Commission (ACCC)* is currently reviewing an attempted \$1.9 billion takeover by Foxtel (part-owned by News) of Austar, a pay TV provider mainly servicing regional areas.

The *Australian Financial Review* emphasised that none of the alleged piracy operations carried out in Australia were illegal, due to the country’s weak piracy laws at the time. NDS allegedly circulated security codes on the internet and encouraged the spread of pirate access cards. According to the AFR, piracy peaked in 2002 with around 100,000 hacked cards in circulation: “The piracy cost the Australian pay TV companies up to \$50 million a year and helped cripple the finances of Austar, which Foxtel is now in the process of acquiring.”

Rupert Murdoch denounced the piracy allegations through his Twitter account and declared he was preparing to “hit back hard”.

NDS and News Corporation have threatened legal action, while several of Murdoch’s newspapers have weighed in. The *Australian* issued an especially vitriolic editorial on Saturday, declaring that the AFR’s allegations could be expected from the “untamed world of online commentary, where the internet has become the new dunny [toilet] door.” The editorial added that “if a financial daily wants to make damaging allegations about

a business that transformed itself into an international success, it should be sure it has the evidence, since a business paper that hates business soils its own nest.”

News Corporation has insisted that no new evidence has emerged on pay TV piracy, and that the NDS emails published by the AFR were submitted in several unsuccessful legal cases brought by rival pay TV operators in the US and Europe against NDS.

The AFR’s editor Michael Stutchbury has replied that the more than 14,000 emails obtained “go way beyond the emails aired in previous court action.”

Neil Chenoweth, the AFR journalist who led the investigation and who worked as a consultant with the “Panorama” program on NDS, rejected News Corporation’s claim that it was exonerated in the earlier court cases. “There were five separate satellite broadcasters,” he explained on Australian Broadcasting Corporation radio, “each multi-billion dollar corporations, DirecTV in the United States, Echostar in the United States, Canal Plus in France, Sogecable in Spain, Measat in Malaysia. All brought legal action against NDS for piracy and each of them were claiming damages in the vicinity of one billion dollars.”

Chenoweth related the outcome of the litigation. “Now DirecTV dropped its case after News Corporation acquired it. Canal Plus dropped its case when News Corporation bought its Italian pay TV arm. EchoStar comes to trial, they have a problem because by the time they brought it to trial the stuff that they really want to bring before the court is beyond the statute of limitations.”

Chenoweth added: “Now the emails that we’ve published also show that some of the testimony that NDS executors gave in that trial doesn’t seem to accord with what the internal emails say. They present a very different picture from what was appearing in court.”



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