

YOUTUBE



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YouTube Case Study

Case study: YouTube's effect on creators over the years.

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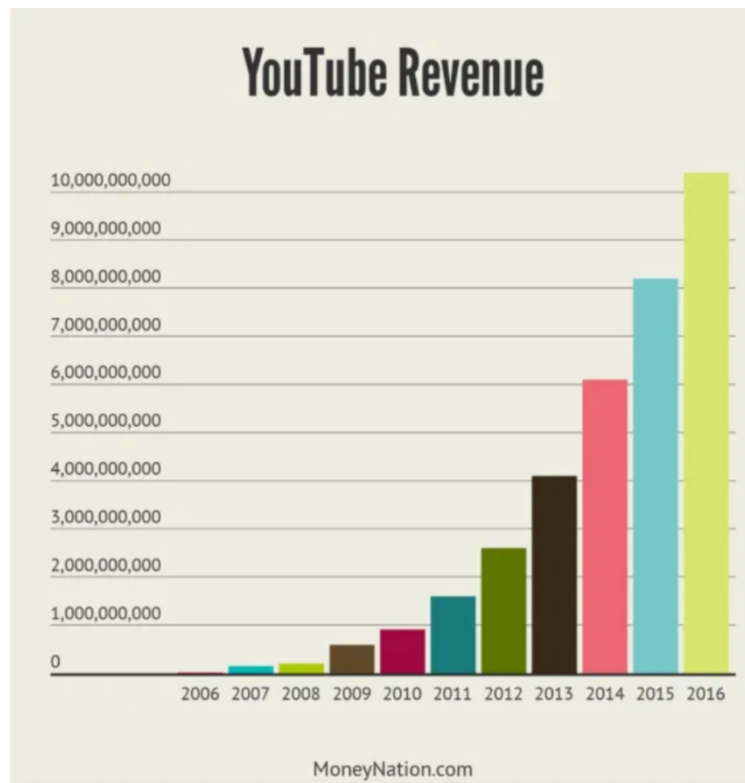
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1. Introduction

The following text critically analyses YouTube, its intellectual property and how it has affected creators over the years. The music industry is evolving fast, turning into an audio-visual industry and is leaving behind those unable to adapt to it. The competition has increased, and the market has become oversaturated since sharing music videos has become easy. We will also discuss a case study and the legal implications in the music industry. We have used different online resources, blogs, magazines, articles and books. It is undeniable that YouTube is the to-go-to destination for video consumers in the internet.

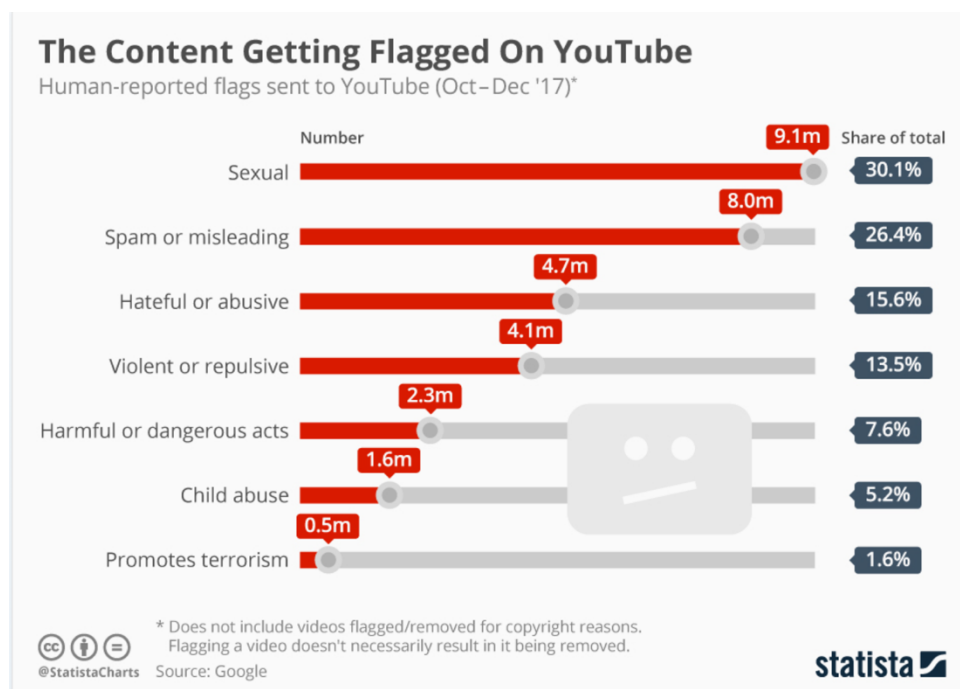
2. History of YouTube

YouTube was created on February 2005 by three employees of PayPal Chad Hurley, Steve Chen and Jawed Karim, initially as a video sharing platform. (Wikipedia, 2020). Their main purpose was to create an online dating platform where people could upload videos of themselves but that did not go well therefore, the site was bought from Google in 2006 for \$1.65 billion. According to Wikipedia, YouTube is the second most popular platform after Google. Over the years, YouTube has been facing constant criticism over aspects of its operations regarding copyrighted content within the videos that were being uploaded which apparently promoted conspiracy theories targeting children but containing violent or sexual content that it was eligible to be monetised for advertising. YouTube has greatly impacted every corner of the world in one way or another. It is now 15 years old and has over 2 billion monthly users who watch millions of hours of content a day .(Leskin, 2020).



3. The intellectual property, copyright law, copyright infringements.

Moving on, YouTube is made of three essential components. The first one is the rights management system which defines the policies and enforces our rights (the asset), the second one is the content ID that scans uploaded videos for content that matches the intellectual property (the reference), and the third one is the product which are the videos that get uploaded. (YouTube, 2020). The music law has tried hard to keep up with the trends making it almost difficult for them to adapt and, for certain, still needs a lot of changes. Artists are able to protect their work through copyright, so it could prevent people from illegally using it or so the creators could get paid fairly. Intellectual property refers to the creations of the mind anything from art works, computer programmes and commercial signs. (IP, 2020). We have different types of intellectual property and some of them are: Copyright; where creators can have rights over their artistic works such as books, music, paintings, sculpture, films etc. Another intellectual property is patents which is the exclusive right for an invention that means that the owner of the work can decide whether others could use it. A trademark is a sign of distinguishing the goods or services of one enterprise from other enterprises. Industrial design, is another copyright that constitutes the features of the design such as shape, surface, lines and colours. We also have geographical indications and trade secrets. The duration of a copyrighted work increased from fifty to seventy years after the author's death. (Brownlee, 1996). The main stakeholders are the creators, the viewers, YouTube itself and its connected companies. YouTube earns a lot higher from their content and creators have realised that they do not get paid enough. On average, YouTube channel receives \$18 per 1000 ad views and for 20,000 views a day a creator earns between \$28 - \$47. (Influencer Marketing Hub, 2020).



Moral Rights for creators:

The creators of a work get to enjoy moral and artist's resale rights. Moral rights originated in civil law jurisdictions in France and Germany (National Portrait Gallery, 2020) and they help protect a creator's honour and reputation. While on the other hand, the paternity rights give the creators the right to be named or acknowledged for a work they have created. The false attribution does not allow a person to have a work falsely attributed to them. Furthermore, there is the integrity right where creators can react if their work has had a 'derogatory treatment' which is the alteration or adaption of a work that mutilates the reputation of the creator. The last one is the right to privacy of photographs and films since the photographers own the copyright over an image. The artist's resale rights entitle the creator of an artistic work to a royalty resulting from a resale and it only applies to works by living artists.

Since YouTube launched, it was taken several times to court for copyright infringement. A lawsuit was made against YouTube from Viacom (Kafka, 2014) where 150,000 unauthorised video clips of their shows were uploaded from different users. Viacom alleged that YouTube failed to take action so they can use it for their own benefits such as increasing popularity to the site. They made a second appeal and the case was settled in March 2014. Alongside many other lawsuits, YouTube faced claims of big labels asking different users to take down videos with songs of who's music was playing in the background by artists they were working with. After losing another lawsuit to the German performing rights organisation GEMA, YouTube realised that is time to turn their system into an automatic one to detect copyright infringement. There is also an act that comes in place which is 'DMCA takedowns' currently governed by U.S copyright law standing for Digital Millennium Copyright Act takedowns which is a website that they can submit content that needs to be taken down for copyright. Too many 'reports' of an unlawful activity of a certain account can lead to the account being terminated. If you believe that some uploaded content matches your copyrighted content, YouTube gives you the options to block the video, monetize the video with ads, track it or mute the audio on the video. Tracking the video can also be customised if the location is different, for instance, I can block a viewer from the USA to watch the video. On the other hand, the person who has received the claim has got the options to file a dispute within five days or the revenue will be send to the other party. Both parties can take legal advice outside of what is offered from the build in options.

One of the major achievements of YouTube has had, has been the 'escrow system' which disputes content ID claims on monetized videos that is also claimed to be the hottest topic surrounding YouTube. If a YouTuber has been receiving strikes on their account, they must undergo the YouTube Copyright School course for the first one to expire in three months. This educational video, is viewed as unpopular on YouTube with dislikes surpassing the likes with 70,000. In general, content creators find the legal side of YouTube a difficult area of the business that often gets misunderstood especially fields such tax implications, personal liability or general intellectual property. Attorneys should educate their clients with the important issues of digital media should a dispute arise. YouTube, does have a tool called Music Policies where youtubers could search through a library and find royalty-free songs. There is also the anatomy of MCN agreements which has direct contact with YouTube to resolve frequent copyright issues. YouTubers, should also be aware when allowing third parties to interact with their account for cyber security concerns reasons.

Legal case study:

In 2019, a group of YouTubers have tried to prove that YouTube systematically demonetizes queer content by automatically flagging videos containing certain keywords such as “gay” and “lesbian”. The group began to collect data and started collaborating together so they could release their results later on. After two months of working and having tested 15,000 words the group, concluded that their doubts were all true. After extended study was carried where they found out that 33% of the videos, they tested with queer content, were demonetized. When these titles were replaced with words such “friend” or “happy” they were able to monetize them. A spokeswoman from YouTube stated that this concern must be taken seriously as we are proud of our LGBTQ+ community. They did mention that they do not have a list of LGBTQ+ related words that can cause demonetization. This implies that YouTube’s policies might be unfairly bias and the best way to go around it is to appeal so that their systems could get better. YouTube does take seriously if content such as violence, adult content, firearms related content, adult themes in family content, inappropriate language is uploaded. However, it is quite difficult to judge the definition of the appropriate language. Restricted mode settings were also updated in 2017 where mature-content filtering must be improved on the site. To make the algorithm better, YouTube also released its community guide for its demonetization algorithm in January 2019 so the videos could avoid demonetization (Romano, 2019). This platform has also a list of “high-risk” words that can cause videos to be flagged and some of them are taken from Urban Dictionary. Creators have been highly affected over the years as the algorithm does not get updated so often and they normally make more changes to it as a whole rather than individually. Creators have also struggled with unfair demonetization and issues such as alleged history of algorithmically suppressing queer content from recommended videos. They also claim that the company is failing to protect the creators from harassment.

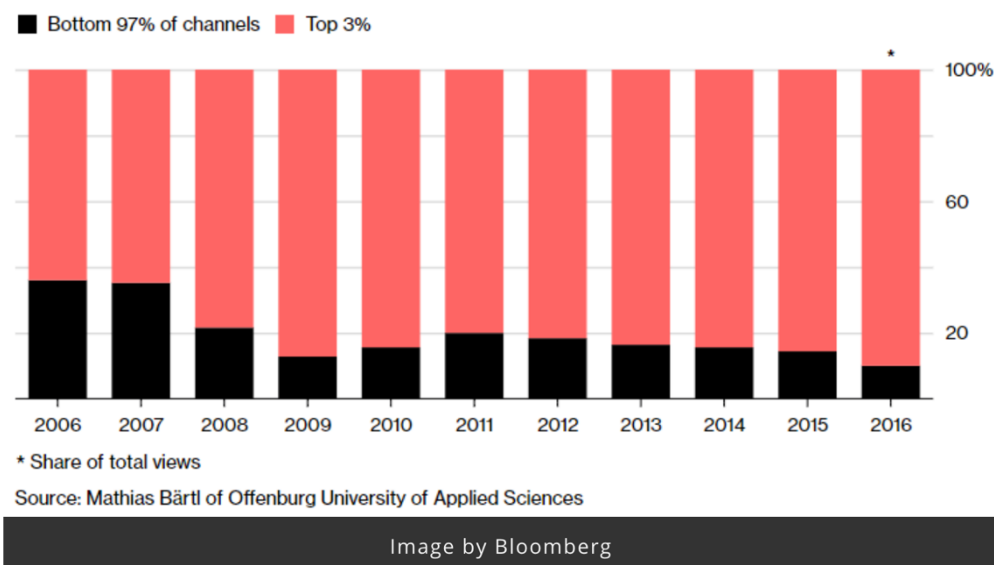
Article 13/17:

On the 26th of March 2019 the European Parliament, previously referred as article 13 to now 17, the Directive wants to bring all member states into a single digital market. The previous article 13 states that content-sharing services must license copyright-protected material from the rights holders (Crellin, 2019) which implies that the major streaming platforms are responsible for the copyrighted material that will be shared illegally on the platforms. From this news, content creators were not satisfied as they are going to be limited on what they can post. Despite the fact that some countries are raising concerns about this law, EU countries have until 2021 to decide and implement the Directive into their national Law. This means that companies will be monitoring what goes live on the internet which might limit creator’s freedom.

4. Common Problems

Some of the common commercial problems that creators face, are that they depend on YouTube to notify the subscribers that a new video has gone live, the viewership is not consistent, and they cannot afford to fund the videos that they plan in their head. Vlogging, blogging and influencers have become an important part of the entertainment industry. (Harris, 2020). YouTube also tends to mute videos where copyrighted or inappropriate

content has been detected and when the internet connection is slow. Moving on, if film sequences or videos are uploaded to YouTube illegally, It is called a violation of rights. (IPO, 2020). However, if the YouTube users act under aliases, they cannot take any legal action against it. I believe, since the internet allows users to register under an alias, they should not be punished for infringement, instead, they should invest more on focusing who creates an account to make sure they are all real people. A study carried out by Information is Beautiful found out that 96.5% of YouTubers don't earn enough money to cross the poverty line. In 2017 content creators made \$1,472 after 2.2 million video views. Unfortunately, the pay per rate number just seems to get worse. Up until today, it is still unclear where the responsibility lies that content creators don't get paid enough.



5. YouTube Revenue Mechanisms

YouTube is a lucrative platform for creators and artists and these creators can generate royalties for the sound used on those videos. The content that gets uploaded on the site is controlled by YouTube channel owners. Although YouTube is evolving fast and has got features such as 360-degree videos and virtual reality, the other social platform such as Facebook is catching up and in 2015 it surpassed 8 billion views daily and now it has also got features such as 360-degree videos and pictures.

YouTube and MTV

YouTube has become bigger than MTV for music videos. (Suciu, 2019). MTV stands for Music TV and used to have music videos content 24/7. A new report from Piper Jaffray in 2019 stated that teens spent 37% of their video consumption on YouTube ahead of Netflix which today has become an important part of the music promotion industry.

6. Conclusion

Since YouTube currently takes the lead in video streaming, this case study is the correct example to demonstrate that the music industry currently is complexed. YouTubers have a promising future and all of the content creators who made a living out of it. Consumers are always in demand for quality content and since it is fast evolving it will open doors for many other opportunities. YouTube has brought real presence into the world. Although now discovering people on YouTube seems normal, back in time this use to be unheard of. (Lau, 2019). With big major artists that were discovered such as Justin Bieber, when YouTube was only two years old, it is now an online space to get discovered easily. Following Justin's success some of the other stars that were discovered on YouTube are Shawn Mendes, Cody Simpson, Charlie Puth, Alessia Cara, Tori Kelly and so on. The social impact of music is high and has facilitated engagement between institutions and individuals, universities and students, business and employees. Content on YouTube is also used to raise awareness such as bullying, suicide, LGBTQ+ issues and so on. (Cohen, 2020). You can have your own channel and this big platform also empowers people to make money from home and make a great income. However, creators do not get paid enough. YouTubers also constantly 'fight' with labels over copyright and the last ones keep on winning. Creators describe it as aggressive copyright claims from record labels and the two most popular ones are Jimmy MrBeast where he claims that he lost more than 'five figures' for saying Bon Jovi lyric "Livin' on a prayer and James Charles who complained that an acappella song parody was unjustly claimed. (Alexander, 2019). The battles carry on even nowadays and creators do not believe this is the right time for YouTube to be making these changes.

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