

Current Policies on Embedding Web Video

Current Rules, Policies, and Best Practices

Curation is rapidly becoming the basis for how websites grow content collections and improve SEO with a mix of created, contributed, and collected content.

In the past three years, the verticalization and increasingly niche-oriented nature of the web has turned content sharing from a highly negotiated process into an automated process.

Rather than pay for what used to be known as ‘syndicated’ content with cash, as traditional content sharing agreements were structured, the coin of the realm is now traffic.

With video media in particular, submitters are invited to allow ‘embedding,’ which provides a feed of content via MRSS (media RSS) to a wide array of potential re-publishers and embedders. These submitters may do this for visibility (meaning wider sharing off the host site) or for revenue shares offered by hosts like YouTube to their content partners.

What follows is a summary of the various techniques and business arrangements.

Waywire has 3 types of content relationships:

1. Search via Open API's

Many video destination sites such as YouTube have open API's and Terms of Services that explicitly allow for embedding of video hosted on their site on 3rd party sites. Using these open API's, Waywire publishers can search for video from these sites in real time.

Because most traffic on the web doesn't come from landing pages, video sharing services have provided open API's that allow automated search, discovery, and embedding. Waywire searches 17 services, via their API's which gives us the explicit permission to discover, embed, and provide page inventory around those videos. While the various terms of service differ somewhat, each of them gives uploads to their respective sites the right to ban embedding. In the event that a video is not embeddable, Waywire respects this ‘flag’ and will not discover or link to this video. Waywire today embeds millions of videos a month from the services we search, and have done this for over five years without an issue, as video embedding has become the accepted practice across the web.

2. Content via BD and MRSS

Waywire has contractual relationships with several video content sites that gives Waywire publishers the explicit legal right to embed video content onto their websites. Waywire ingests this content via MRSS and makes it searchable in real time.

Publishers using the Waywire platform can also do direct deals with content owners, and license their library of content for viewing and monetization on Waywire hosted publisher websites. Waywire seamlessly makes this content available for search via MRSS.

3. Open Embedding

A large number of websites offer embed codes on their websites, which are designed for the explicit purpose of other websites embedding that content. Because these videos are being embedded and not copied, or in any other way served from the site doing the embedding, there is no liability for that content on behalf of the embedding site.

YouTube Video Permission and Rights

When I include an embedded YouTube video link, the YouTube video appears on my article, blog, or website...

Am I infringing copyright laws?

The YouTube TOS states the following:

You also hereby grant each user of the Service a non-exclusive license to access your Content through the Service, and to use, reproduce, distribute, display and perform such Content as permitted through the functionality of the Service and under these Terms of Service. [YouTube TOS part 6C]

This clearly states that the owner of the video grants you a limited license to embed the video simply by leaving the embed option on (which is part of the functionality of the YouTube Service).

However, what if the uploader of the YouTube video does not own the rights to the video?

In this case, it is an infringing YouTube video. As the host of the video, YouTube is responsible for taking the file down, and is legally liable only if they do not obey a take down request received under the provisions of the DMCA. A publisher embedding video from YouTube would not be held liable, given they are not the host of the video file in question, as it is ultimately being played from YouTube's servers.

Other Content Trends

Fair Use:

An increasing number of Waywire's clients are recording content from broadcast and cablecast networks via DVR's, and then cutting up 'selects' or editorial features from this material. In some cases, networks will call and ask our clients to replace their uploaded clips with network players (so they can share add revenue), but actual take-down requests have been extremely limited.