

WP3A (Start 02/06/2014 – End 03/09/2014)

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## Summary

Aereo is a 'cloud-based' start-up that enables people to watch TV on tablets & smart phones. It was sued by broadcasters over copyright & lost in the US Supreme Court. The dilemma - a ruling to shut it down using copyright law, could threaten innovation in the cloud. This paper investigates the case & what it means for cloud providers. It finds that both technical design & substantive effect can matter.

## Research Questions

1. Does the technical design matter in copyright liability cases?
2. Is the technical design or the substantive effect more likely to be the determining factor?
3. Drawing on the US court ruling and legal argument, are there any insights from the Aereo case for EU cloud service providers?

## Challenges

A/ Inter-disciplinary - law, media & technology policy expertise & methods– the case involved copyright law, applied to TV broadcasting, based on technological arguments

B/ Jurisdiction – comparison of legal position under US & EU copyright law & intermediary liability provisions, given the technological complexities in Aereo's system.

## Progress & Deliverables

Deliverables - 1 CREATE Working Paper, 4-6000 words, for publication on CREATE website & submission to journal; plus 1 news story.

Commissioned 2/06/2014. News story delivered 23/06/2014 (same day as US court ruling). First full draft delivered on deadline 01/08/2014

Minor corrections done 03/09/2014

## Value Added

Proactive & responsive: Fast delivery in response to current copyright litigation & important landmark case

Unexpected Outcomes:

A/ How cloud liability decisions will have business model consequences.

B/ Public policy may need to re-calibrate the copyright balance to encompass disruptive cloud technologies