

Hollywood's Antipiracy Efforts Add New Voice

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LOS ANGELES — In the fall of 2012, Ruth Vitale, a sassy independent film executive, nosed her horse into a badly directed jump and crashed in the mud.

The animal was fine. But Ms. Vitale broke her back, providing painful perspective on the need for the right mix of caution and daring when faced with an obstacle.

And the lesson may now ease her leap into another quagmire: the online piracy debate.

“It was pilot error,” Ms. Vitale said of the riding accident, though she could well have been describing the crackup, just months before her own, of Hollywood’s push for broad antipiracy legislation in both houses of Congress.

In a surprise move, Ms. Vitale, who built her executive reputation on hip films like “Hustle & Flow” and “The Virgin Suicides,” last month was named executive director of CreativeFuture, a coalition of movie and television producers, unions and companies that are bound by a common determination to get a grip, finally, on Hollywood’s digital future.

The entertainment industry is usually more comfortable with backdoor maneuvers than with public campaigns. But a Beltway lobbying operation by the Motion Picture Association of America and others was smashed in early 2012 by the combined effort of Silicon Valley giants like Google, the online encyclopedia Wikipedia and grass-roots web activists. Together they persuaded Congress to abandon proposed antipiracy laws as unduly restrictive of online freedom.



Ruth Vitale, executive director of CreativeFuture, is aiming to steer Hollywood's digital future. Credit Stephanie Diani for The New York Times

Two years later, Hollywood is beginning to respond. Its new strategy generally eschews legislation, pursues voluntary agreements with legitimate companies that may be complicit with film piracy, and is looking for help from young consumers.

But it also counts on the now slightly tempered brassiness of Ms. Vitale, who said she was openly frustrated at seeing techies steal the movie world's sense of cool.

"We're the cool kids. We actually adopt new technology every day," snapped Ms. Vitale, who spoke on Wednesday morning at Ago, a West Hollywood restaurant that was co-founded by Robert De Niro, and that finds her cool enough to have opened its doors an hour early for her interview.

A sharp tongue and fierce drive have been Ms. Vitale's trademarks in a series of jobs at New Line Cinema, Paramount Classics and First Look

Studios. She proudly notes that she never missed a day of work to her broken back, though she walked “an inch at a time” for four months, she said.

“She’s always happy to be in the firing line,” said the producer Gale Anne Hurd, a friend and professional ally.

Ms. Vitale cites the 3-D hit “Gravity” and its director, Alfonso Cuarón, as evidence of forward thinking in recent movie making. The film dominated the technical categories at this month’s Oscars.

But if Hollywood’s tech credentials are intact, the film and television businesses remain threatened by online theft that appears to be growing, despite legal efforts against pirate sites like Megaupload, and, more recently, Popcorn Time.

An app that allowed instant streaming of newly released films with Netflix-like ease, Popcorn Time was quickly taken off the web this month under what its developers, who were based in Argentina, hinted was legal pressure. But similarly designed apps popped up elsewhere, underscoring the difficulty of slapping down global film theft with lawsuits or prosecution.

One argument says Hollywood needs to make movies available online as quickly as they hit theaters, though such a change would disrupt a long-successful business model.

“The only way to fight piracy is to release day-and-date in every window, providing a reasonably priced digital alternative to the pirates,” says Peter Sealey, who 11 years ago co-wrote a book called “Not on My Watch: Hollywood vs. the Future.”

A study commissioned by NBCUniversal, titled “NetNames: Sizing the Piracy Universe,” reported in September that online piracy in North America, Europe and Asia had risen 160 percent in two years, consuming 24 percent of Internet bandwidth in those regions.

Any estimate of the actual dollar loss from piracy comes up against imponderables — how many infringing viewers would actually pay, and how much, if they could not see a film free?

Yet Ms. Vitale and others point toward audience leakage to sites like Pirate Bay, which has been known to log 60 million unique visitors a month, as a factor in the declining number of films released annually.

The number of studio films has been falling since the middle of the last decade, and that trend is now also evident in the independent film business. The Motion Picture Association reported last week that after

rising sharply for three years, the number of independent films dropped about a percentage point in 2013, to 545 movies from 549.

Speaking on Wednesday, Ms. Vitale attributed the falloff to piracy-driven problems that have made it more difficult to finance an independent film by selling rights to foreign territories, where viewers flock to poorly controlled pirate sites, bypassing conventional outlets and the revenue they once provided to finance films. "Spain used to account for 8 percent of your budget," she said. "Now, it's zero."

In a separate interview, Jean Prewitt, chief executive of the Independent Film and Television Alliance, said Italy was rapidly following Spain into the "no sale" column. "It's not about lost profit. It's about the ability to finance a picture in the first place," Ms. Prewitt said.

Ms. Vitale has reason to know the math: On leaving her post as president of First Look Studios in 2007, she began to assemble financing for an independent distribution company, only to have her plans crumble in the next year's general financial collapse. She has since operated an indie-oriented consulting firm, the Film Collective.

Initially called Creative America, CreativeFuture was founded in 2011 by a core group that included CBS, Warner Bros. and several entertainment unions. It was intended, among other objectives, to give Hollywood's antipiracy effort a public face other than that of the Motion Picture Association of America, which was easily portrayed as an alliance of corporate heavyweights.

Since Ms. Vitale's appointment, CreativeFuture has announced several dozen new signatories. Backers now include the indie mainstay Killer Films, the "Transformers" producer Lorenzo di Bonaventura, and talent representatives like the Creative Artists Agency and William Morris Endeavor Entertainment.

Now the question becomes what to do with that support.

For the moment, Ms. Vitale said she hoped to extend voluntary arrangements with payment processors, ad agencies and others. To date, the most prominent of these agreements is the Copyright Alert System, under which several Internet service providers last year agreed to send an escalating series of notices to suspected copyright infringers, imposing restrictions on service after six "strikes."

Marvin Ammori, a lawyer who has represented Google in the copyright wars, recently called such voluntary agreements no less threatening to free expression than some proposed laws. "Unlike a court of law, there will be no evidence in open court, no established processes, no published

decisions, no opportunity to appeal,” Mr. Ammori wrote this month on Slate.

Ms. Vitale quickly brokered a response from Kurt Sutter, a writer and executive producer of “Sons of Anarchy.”

“Don’t kid yourself, kids,” wrote Mr. Sutter, in a piece that was also posted on Slate: “Google *is* the establishment. It is a multibillion-dollar information portal that makes dough off of every click on its page and every data byte it streams.”

Those dueling viewpoints suggest that the gap between digital-freedom advocates and those with a large financial stake in copyrighted material may have narrowed little in the last two years.

“The fundamentals have not changed,” said Mitch Stoltz, a staff lawyer with the Electronic Frontier Foundation, a nonprofit that supports Internet freedom. Content distributors, he said, still want to have “the ultimate say over what can be on the Internet and what can’t.”

As for the very young, Ms. Vitale says she sees signs that children raised in homes where legitimate streaming from Netflix and Hulu are routine can be persuaded to think differently than millennials, many of whom take for granted the concept of free content online.

One idea — though now it is no more than that — is to build alliances with educational nonprofit groups that might enforce the notion that stealing an artist’s work online is just like lifting from a classmate’s desk.

“It’s as simple as this: One kid does a painting, and another kid comes up and puts his name on it,” Ms. Vitale said.

http://www.nytimes.com/2014/03/31/business/media/hollywoods-antipiracy-efforts-add-new-voice.html?emc=edit_th_20140331&nl=todaysheadlines&nid=65750106&r=0