

The secret world of the adult video market - uncovered

Is it a sector of the DVD industry like any other, or one with its own unique rules?

Debbie Galante Block and *Tom O'Reilly* investigate the scope of the adult video market and reveal the opportunities and pitfalls that it can present to replicators



THE ILLEGAL SECTOR CANNOT BE CLEARLY TRACKED, AND THAT SECTOR IS SAID TO BE WHERE THE MONEY IS

difficult to track because of its definition... or rather lack of it. Does *Playboy* count? It's nearly impossible to really track." Instead, Berghammer suggests the industry needs to be looked at in terms of 'legal versus illegal.' "How big a portion of the video industry these titles represent is skewed because the illegal sector cannot be clearly tracked, and that sector is said to be where the money is."

Whatever the exact numbers are, it's likely that they are growing year on year. "The adult industry has done nothing other than grow and flourish in the last five to 10 years," says a spokesperson for adult studio Pink Entertainment. "It's actually becoming more and more mainstream every year. Jenna Jameson is a household name, suburban soccer moms are having Tupperware-style adult novelty parties."

IN SOME REGIONS OF THE WORLD, ANY 'ADULT' TITLE IS considered illegal. "There are extremely severe penalties against pornography in areas such as Russia and the Middle East," says Berghammer. "Just having a picture of a naked woman on a hard drive is illegal."

Certain types of adult video are considered illegal no matter where in the world you are, such as child pornography. In the US, content is put to the Miller test (a test determined by the decision of the Appellate Department, Superior Court of California) after the Miller versus California decision in 1973. In most communities, for example, anything with bestiality and/or most types of violence would be deemed obscene and would clearly fail the Miller test, according to New York-based attorney Charles Tolbert. However, studios need to watch the interplay with other laws as well. "Obviously, doing something cruel or inhumane to a child or an animal would be obscene. It's not just a matter of pornography. It is breaking other laws as well," says Tolbert.

Despite the Miller test, the law is not that clear-cut; sometimes content may pass under the test because it is considered to have 'artistic' value. In addition, the test doesn't travel: "There is no international standard for obscenity, which makes any type of enforcement among varying countries virtually impossible," he says. In fact, obscenity laws vary from state to state, even community to community. "Titles being distributed across state lines may be fine in one community and characterised as obscene in another," he adds. Manufacturers don't want to risk being raided by state authorities.

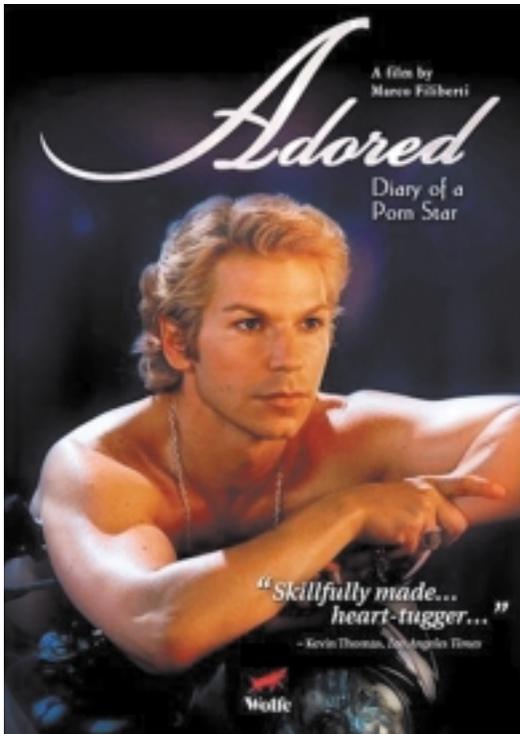
Assuming content has passed the Miller test, why then is everything still so secretive? "Think about the people who are acting in these videos," says Tolbert. "Are all of them legal aliens? Have they filed taxes?

CALL AN INDUSTRY EXECUTIVE, TELL THEM you are writing a story on the adult video market as it relates to DVD replication, and you will typically get a snicker, perhaps a comment or two about the industry, and then a "but don't quote me," or something to that effect, as adult video is definitely a taboo topic in the replication industry. Those who specialise in replication of adult video do not see value in promoting it. Those who do not replicate adult video DVDs do not want to have their name show up in such a story for fear of the implications. Equipment and raw material suppliers either deny they sell to replicators who make adult discs, or will only discuss it off the record.

So while a definitive account of the adult video industry from a replicator perspective is difficult to present, *One to One* did find some executives, either in the adult video market or familiar with it, who were willing to talk. This piece sums up the state of the industry, as well as what makes adult video both similar and different to non-adult disc replication.

To start, how big is the adult video market? Until recently, it was difficult to estimate the size of the industry. But *Adult Video News (AVN)*, trade magazine for the adult video industry, recently released its first-ever statistical look at the market. It pegged 2005 adult video sales and rentals in the US at \$4.24 billion in 1995. The Video Software Dealers Association, trade association for home video sales and rentals – not including adult – said US consumers spent \$24.3 billion buying and renting DVDs and VHS cassettes. That would mean adult sales and rentals in the US represented 14.9% of all US home video sales and rentals in 2005.

It's important to note that adult video sales and rentals are closer to a guesstimate than fact. Even *AVN* admitted that hard numbers are difficult to determine because most adult companies are privately held. Additionally, adult video sales most likely include only 'legal' sales of adult material. "The phrase 'adult titles' is very misleading," offers Peter Berghammer, CEO of Huntington Beach, California-based market research and consulting firm Copernio. "The industry is also



Is this an adult title? Legal proceedings will decide

Are any of them out on warrants? Are they child predators? It opens up a whole world the industry would prefer to remain private."

What about a replicator's liability if content is deemed obscene after the fact, particularly in the face of changing laws? "All replication and duplication companies I'm aware of protect themselves against legal implications by having the customer sign a release agreement. The customer always has to sign an agreement absolving the replicator/duplicator from any legal or financial culpability that may arise from the customer's content. This covers not just obscene material, but also any copyright infringement, or licensing agreements," says one replication equipment manufacturer.

THE ADULT ENTERTAINMENT INDUSTRY IS VIBRANT IN

many areas of the world, with different areas known for specific segments of the adult video industry. While nearly all countries have signed on against child pornography, Berghammer says there are still areas known for under-age sexual content, including Sweden, Denmark, Russia, Lithuania and Estonia. "In eastern Europe, replicators will typically pirate adult content [rather than publish it]," says Serge Bozin, president of Los-Angeles-based consulting firm CD Profile International. "In developing countries, pornography rates are typically higher with a higher rate of illegal activity," says Berghammer.

However, most of the porn industry is based in the US, say industry executives. While rules for pornographers in the US are very strict – they must keep a full list of performers' names, IDs, aliases, all the movies they have appeared in and so on – it doesn't seem to slow companies down. If there is one location known beyond all others as the home of adult video, it would be southern California. "In southern California, everyone knows someone who's involved in the business," says Berghammer. Why so much there? "Income level justifies production. Pornography is easily accessible financially, both production and purchase."

Is there still opportunity for replicators in the adult business? Bozin offers one perspective. "There's a major misconception about the amount of work available." He believes the adult DVD replication industry is significantly less than 5% of the DVD replication industry as a whole. "People believe it's a huge industry, but it's really a small business," he says. "Some of the deception stems from the fact that there are so many adult titles, more than Hollywood, but adult DVD replication runs are typically only in the 2,500-unit range."

About 20 replicators in the US offer adult DVD replication services, as well as a host of overseas suppliers, adds Bozin. Distributor Chris Kren, owner of Feisty Media – parent company of online distribution company PornTeam.com – says, "We work with a handful of replicators that specialise in the manufacture of adult product, and a few mainstream replicators who have set up separate companies to do the adult work."

"Pricing for adult DVD is typically more competitive than those for non-adult DVD," says Bozin, noting the price for a small run of DVD-5s, packaged, is very aggressive. Most of the money made in selling adult DVDs is in the distribution and retail sale of the product. Quality is not considered a key factor in adult DVD manufacturing, according to Bozin.

Content provider Ty Lattimore of Ty Lattimore Entertainment and his distributor Kren differ a bit on these opinions. Both say that pricing is not different in the adult sector and quality does matter. "Pricing, as in mainstream work, is based on volume. If you are doing a run of 1,000 units, you are getting charged about 68 cents per disc. If you are doing 20,000, you're getting charged for about 40 cents per disc," says Kren.

When deciding what replicators to work with, Kren says, "We look at the same things everyone looks at: quality, speed and whether they are brokering outside the country, an important issue because of piracy. Our replication is done in the US. I've been to the plant. Everybody is driven by price, but I won't ship anything overseas." Kren is not alone. Many studios frown on sourcing their replication outside the US because of piracy issues. "Shipping can be a problem; you can lose half the products in shipments, and you don't want to lose your master," says Kren.

"Piracy is always a concern," says the Pink Entertainment spokesperson. "We exercise due diligence in choosing our replicators and distributors, choosing to build relationships with trusted companies." The studio currently uses two replicators, both in the US. It has chosen not to copy-protect its content at this time. "If someone wants to hack a DVD, there's not much you can do to stop someone with their mind set on ripping and sharing."

On the other hand, Jackie Ramos of adult video publisher Wicked Pictures' DVD division says it would be foolish not to use copy protection on the company's discs. "When product is pirated, its integrity is compromised, and, in turn, the consumer ends up with inferior goods. Our livelihood is directly dependent on sales of legitimate product, so it is of great concern. A frustrating fact is that pretty much anything has, or can be, cracked. Advanced Access Content System [AACSS] could change that, albeit temporarily."

"Beyond pricing and piracy, getting replication done outside the US is also frowned upon because it takes a lot of time to ship the discs back to the US. Additionally, shipments can get stuck in Customs, too, adding to the wait," says Bozin.

Business aside, why do replicators grow pale and quiet when asked about the adult replication business? Is it morality? Not necessarily, but rather demands put on them by mainstream customers. R Harvey Bravman, president of Advanced Digital Replication, a project

ADULT CONTENT WILL NOT ONLY HELP DRIVE A NEW FORMAT, IT WILL USUALLY BE IN THE LEAD CAPITALISING ON THE FORMAT'S NEW AND INNOVATIVE FEATURES

management firm in Boston, says, "One replicator I know used to get business with the scare tactic: 'You don't want to use just any replicator. You don't know if he does porn or not.'"

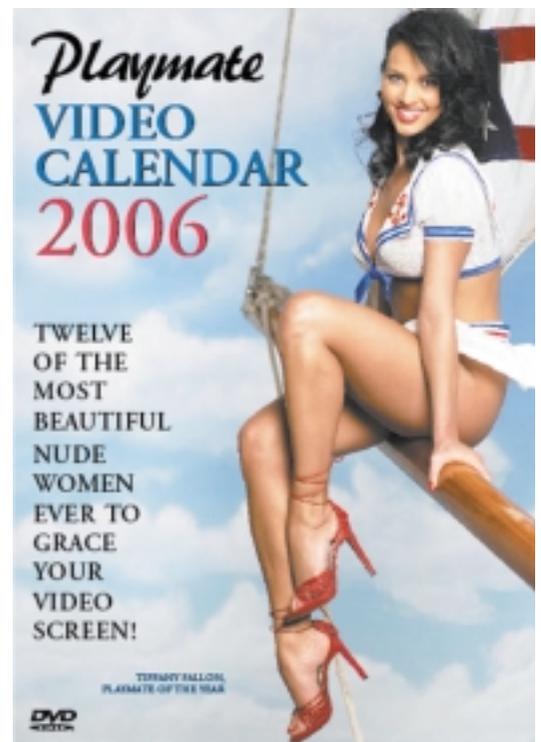
Ryan Swerdloff of equipment manufacturer Vinpower Digital tells about one of his duplication equipment customers whose majority of jobs are from religious institutions. "They could not take the chance in accidentally delivering any porn material to the religious institution. Not only would they risk losing that customer, but word of mouth about the indiscretion would spread quickly and they would lose significant business. In the end, the risk of losing their primary customers is too great for the short-term potential gain."

A CASE IN POINT IS HALESTORM ENTERTAINMENT, AN

up-and-coming video production and distribution company, focusing on 'family-friendly' programming. One of its titles, *Sons of Provo*, is a 'mockumentary' of the greatest LDS [the Church of Jesus Christ of Latter-day Saints] boy band that never really was. It is rated 'PG.' HaleStorm was having the title replicated in the autumn of 2005 at a California facility. Two Utah families purchased copies of the DVD at Deseret Book stores, a chain owned by the LDS Church. While the packaging and label artwork were all appropriate for the title, the content on the disc was a movie titled *Adored: Diary of a Porn Star*. Four such DVDs with mixed content were returned.

The title is somewhat misleading in that *Adored: Diary of a Porn Star* is an independent documentary about a gay porn star, as opposed to an adult title. A spokesperson for HaleStorm tells *One to One* that HaleStorm and the unnamed replicator had an oral agreement that the replicator did not replicate adult content. As this article is being written, HaleStorm and the replicator are in legal proceedings over whether the title should be considered an 'adult' title.

At the very least, going forward, HaleStorm plans to get confirmation in writing that a replicator does not handle adult content. It will likely also define what adult content is. Enough stories like HaleStorm's exist to cause concern among content publishers about the possibility of a mix-up. A British couple bought what they thought was a classic movie *The Pajama Game*, starring Doris Day, from a supermarket in 2005. Instead, the disc contained Italian Film Tettone che Passione (in English, *Breasts, What a Passion*).



Adult content is hard to define: Does *Playboy* count?

Bravman spoke about a similar incident in the Boston area. "We re-did a job for a company that came to us in a panic. When they received their shipment of a children's martial arts programme on DVD, a few were sent out to be reviewed by magazines. One reviewer received a male bondage video instead of the child's video. We checked it out and found the company that printed the disc had readers that didn't work. I called the plant. At first they denied they work with adult content at all, but eventually admitted they have two facilities next to each other; one that does adult, the other doesn't. But the question is, if your adult content is real busy one month and the other plant is not busy, would you turn away business rather than do the manufacturing in the adult content plant? We ended up re-doing the job for them."

Have these kinds of mix-up led content providers to consider duplicating or replicating their own discs? If so, have they had a problem getting machinery vendors to service them? One machinery supplier says, "I have worked for three different equipment vendors, all supplying different parts of the process, and none of them had any objections to selling to the adult industry. We are much more concerned about the pirates and counterfeiters. Many of these shops are out in the open. If *Hustler* calls you up for a machine... you know what they'll be producing."

Different countries have different standards for what is permissible

I WON'T SHIP ANYTHING OVERSEAS...YOU CAN LOSE HALF THE PRODUCTS IN SHIPMENTS, AND YOU DON'T WANT TO LOSE YOUR MASTER

Life as an adult content publisher is typically difficult, according to Bozin. Adult publishers must be careful to follow the strict set of laws established for their business. Many organisations, ranging from the Internal Revenue Service to the local Fire Department, can easily shut down an adult company if they don't follow the letter of the law. "If something is done wrong, there is always someone there who can shut them down," says Bozin.

It's clearly the norm for adult content providers to outsource replication jobs, but at least some are doing their own duplication. According to Vinpower's Sverdløf, duplication is growing significantly among adult film producers. Now that a great majority of the players are capable of playing at least the DVD-R format, there's less concern about whether a customer will be able to play a duplicated disc. "Also, often smaller adult film producers or additional runs of older titles do not meet a replication company's minimum order quantity. In that case, by going to a duplicator or doing it themselves, they can produce a much smaller quantity at a lower price. With blank DVD-Rs becoming so incredibly cheap as well as the drastic reduction in price for both manual towers and robotic autoloaders, the overall expense is very low with a higher return even at smaller quantities," he says.

ADULT VIDEO HELPED LAUNCH THE VHS AND DVD

industries. Pornographic DVDs still make the most use of some of the more innovative DVD features, such as multiple angles.

The question at hand is: will adult video drive HD DVD and Blu-ray the way it drove the predecessor formats?

"Adult product has helped drive every video format that brings content into the home," says one replication equipment manufacturer. "I see [blue-laser DVD] exploding in the next couple of years, with the adult industry at the forefront," agrees the Pink Entertainment spokesperson. "Consumers continually demand higher-quality products, bigger screens, clearer definition – this is no different in the adult industry."

According to Berghammer, the first HD DVD porn title was released in January 2005, well ahead of HD DVD hardware, an indication that at least some in the adult market are excited about high definition. But some producers feel there is a downside to high definition. "Some things, they say, you don't want to see in high def," says Berghammer. "A lot of people won't be interested in high definition porn." Also, with higher capacity also comes the cost to fill that capacity. "How do you fill the disc?" asked Berghammer. "Whether they shoot in high def, or add multiple camera angles, it's going to cost more to produce."

There are other issues that can be seen as damaging to the high definition formats. "Before, when [consumers] wanted porn, it had to be on VHS, and then it had to be on DVD," says Berghammer. "Now there are equally competitive choices that don't require physical media. Blu-ray and HD don't seem to offer the cost effectiveness of DVD." Berghammer believes next-generation DVD will be driven by videogames, not porn.

Adult video helped launch DVD – but will it do the same for HD DVD and Blu-ray?

“We are seeing a huge shift to VoD (video-on-demand) and pay-per view sites. The adult market keeps talking about the new formats, but I haven’t seen any studios jump aboard on either side. My hope for the new formats will be that DVD prices will be driven down,” says Kren.

It is hard to dispute the growing number of distribution outlets for adult video, particularly on television and the internet. Both of these models offer the user the ability to purchase adult video without driving to the nearest adult video retailer. Several adult studios recently announced they are working on web-based ‘pay as you go’ models, where a subscriber buys scenes or so many minutes of a film for a set fee. And for those producing illegal pornography, distributing content electronically rather than on physical media is easier to get through a border check point than sneaking it in.

Lattimore agrees that “the key trends are mobile platforms and portable media. Business seems to be doing well. The adult industry is typically ahead of technical advancements. As of 2006, our distributor and most studios have phased out of VHS.” In terms of choosing between HD DVD and Blu-ray, Lattimore says it will take time to shake out. “I think the adult producers will try to see what gives the customer the best viewing experience at the best price.”

THE CUSTOMER ALWAYS HAS TO SIGN AN AGREEMENT ABSOLVING THE REPLICATOR/DUPPLICATOR FROM ANY ILLEGAL OR FINANCIAL CULPABILITY THAT MAY ARISE FROM THE CUSTOMER’S CONTENT

Ultimately, it will be the customer that decides the future of adult video. “Porn providers are going with what makes the most money for them,” says Berghammer. “What is the simplest thing that consumers can get cost effectively?” While Swerdlof says adult titles might not drive the industry, they will certainly take advantage of it. “Adult content will thrive with the significantly higher capacity the blue-laser formats provide, so they can put even more features and content into their videos.”

Ramos admits that high definition technology is incredible. “The sheer volume that these discs are capable of holding along with navigational possibilities is amazing. We’ve met with people that are on both fronts. This appears to be the quantum leap for DVD. The market looks promising, but it has to be cost effective. There are so many variables and grey areas at this stage of the game that often times you don’t know who to believe. The numbers I’ve been quoted thus far for production are rather high, but that’s to be expected with new technology. If those numbers come down, it will open up the floodgates to the smaller manufacturers out there. If not, we may be looking at some lag time before everyone jumps on board. It’s my experience that change occurs on a gradual scale. For instance, we stopped producing VHS last year. I think that this [high definition] format will eventually be as successful as DVD, if not more so as long as costs can be recouped.”