

Blockbuster's Demise Due to Consumer Angst and Costly Litigation

August 16, 2018

By: Hugo V. Alvarez

One of the first summer jobs I ever had was working at Blockbuster Video. I earned \$4.25 an hour, but I enjoyed working there. Blockbuster was one of the fastest-growing companies in the country. It had thousands of stores and customers. It had a bowl game named after itself. It even had it's own awards show. The future looked bright.

But then came Netflix. And Blockbuster today has been reduced to an afterthought.

The rise and fall of Blockbuster highlights the impact fast-changing technology has on consumer habits. In less than 20 years Blockbuster went from having thousands of stores and millions of customers to having just one store. A series of managerial missteps on top of its failure to realize the disruptive change caused by Netflix led to the ultimate demise of Blockbuster Video.

Blockbuster had a flaw in how it made money. It made millions of dollars when its customers failed to follow the rules. In other words, a significant portion of Blockbuster's revenue was the direct result of the late fees it charged when customers failed to return a video on time. In fact, when Blockbuster briefly eliminated late fees, revenue almost collapsed, which led it to re-institute the late fee policy. Late fees also generated costly and time-consuming litigation that Blockbuster ultimately had to settle at great financial expense.

Even though those late fees generated a lot of money for Blockbuster, it was a business model that was difficult to sustain over the long haul as both litigation costs and consumer angst grew over the practice. Nobody likes to get dinged with a late fee, so consumers flocked to Netflix when they learned that, in exchange for a fixed monthly subscription fee, Netflix would never charge a late fee - in addition to eliminating a trip to the store.

The Netflix subscription model beat out Blockbuster's late fee revenue model, but this did not have to happen. The lawsuit filed against Blockbuster over excessive late fees should have been a sign for Blockbuster to change its revenue structure.

Litigation is often a necessary part of doing business in America. But litigation is also an opportunity to evaluate what your business is doing, rightly and wrongly, and make changes to both fight off future litigation and improve your business model for better long-term survival. There are numerous examples of business litigation where the parties have defended their turf but also changed their

conduct to keep up with the changing world. Blockbuster, however, did not alter its conduct. It paid excessive sums of money to resolve the late-fee litigation when it should have realized that the late-fee component of its revenue model needed changing.

Blockbuster settled the late-fee litigation and ended up paying millions of dollars in legal fees. But even with that settlement, it still kept charging late fees and consumers flocked to Netflix. The rest, as they say, is history.

Working at Blockbuster for a summer earning minimum wage kept me interested in following Blockbuster's subsequent travails, and its story is a cautionary tale that I share with my clients regarding business and litigation strategy. Though not the exclusive reason for its demise, the litigation over Blockbuster's late-fee charges should have triggered a change in Blockbuster's revenue model and business practices, serving as a catalyst to force the company to change for the better and better equip it for long-term growth.

I am always available to discuss a client's business needs and strategies, including any discussion regarding current or anticipated litigation or business practices that may result in future issues.