

## EXHIBIT 3

## TO DECLARATION OF JON NICOLINI

THE MEDIA EQUATION

# The Glut of Shows Unwatched

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The great thing about modern technology is that you never have to miss anything on television. That's also the terrible thing about it.

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Last Sunday, I was traveling and did not see "Mad Men." As someone who cares about being in the know, when I got back on Monday, I wanted to catch up on the episode. Because I spend time on

[Twitter](#), I already knew that the episode included a creative session conducted in the nude, so I wanted to see it for myself before I came across other spoilers.

Having set my DVR — I subscribe to the FiOS television service from [Verizon](#) — for just such a circumstance, my wife and I plopped down on Monday night for a little time with Don and Peggy. I hit play, and then the screen went blank. After several more attempts, I called in the household's chief technology officer.

"You recorded the high-def channel," said my 13-year-old daughter Maddie, adding that seeing as I own a cheap set from Costco, it wasn't going to play.

Check, but not checkmate. Verizon has an on-demand service, but as it turns out "Mad Men" doesn't show up for a few days. Starting to feel desperate, I thought for a moment about hopping on the laptop and searching BitTorrent for an illegal copy, but given that I make a living creating original content for a large media company, stealing from another one did not seem like a good idea.

Then I remembered iTunes. Right there for \$2.99, Season 4, Episode 6, "Waldorf Stories." As I took the [iPad](#) downstairs to put it closer to the wireless signal, I told my wife it was going to take about 30 minutes to download. When I got back upstairs, she was already asleep and I shrugged and settled in for a little me time with the Mad Men. I woke up in the middle of the night with the iPad perilously balanced on my less-than-flat midsection, wondering what I had missed.

That was Monday. By Wednesday, [Steve Jobs](#), the sensei of all consumer desires, had announced the resurrection of [Apple TV](#). For \$99, I could buy a new geegaw from Apple that would allow me to rent, not buy, television shows for 99 cents that would play on devices that won't fit on my stomach, like big flat-screen televisions. (Then again, for the time being only Fox and ABC are doing

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television business with Apple, so it would not have ended my search for “Mad Men.”)

Apple is hardly alone. [Amazon](#), [Netflix](#) and [Google](#) are getting in the television game. And all of them want to make sure that I have the means to dial up the programming I want at a time of my choosing on a device of my selection. Everyone wants to make sure that I never miss a thing.

But maybe I should. Television, which was once the brain-dead part of the day, had become one more thing that required time, attention and taste. I have fond memories of the days when there were only three networks and I could let my mind go slack as I half-watched Diane and Sam circle each other on “Cheers,” because that was pretty much the only thing on.

Did watching those shows raise my cultural I.Q. or put me in the thick of social media discussions over whether Snooki was actually the author of her own place in the cultural narrative? Um, no. But neither did it turn me into a cool hunter, worried about missing something, or a technologist, juggling devices and platforms the minute I got home.

In the dawning era of an always-on database of television, even shows I missed on purpose now find me. It was always a source of iconoclastic pride that I never saw a single episode of “Seinfeld” or “Friends” back when they were in their prime, but in the era of multiplying channels and ubiquitous choices, those shows have now hunted me down.

The media world today is less the paradox of choice than the inundation by options. Right now, waiting patiently next to my television, I have “The Girl With the Dragon Tattoo,” “Sin Nombre” and “Sunshine Cleaning.” The latter two movies have been sitting there for months, and I can’t remember the last time I used the DVD player for something not related to work.

My DVR is groaning at 79 percent of capacity, including that episode of “Deadliest Catch” from two months ago in which the captain dies. I ordered up episodes of “The Good Wife” for my iPad after hearing about it from friends and seeing that it got lots of Emmy nominations, but when I settled in on a long airplane ride to catch up, some guilty time with “Hot Tub Time Machine” got in the way.

That both recent and ancient television is, or will soon be, a few clicks away just adds to a buffet of media of all types I can’t possibly finish. My iTunes library would not fit on my new iPad because I have about 75 gigabytes of music, 20,000 songs or so, many of which I have yet to hear.

Our ability to produce media has outstripped our ability to consume it. The average photograph now gets looked at less than once simply because there is almost zero cost and effort to producing one.

And gone now is the guilty pleasure of simply staring at something mildly entertaining. We don’t watch TV anymore as much as it seems to watch us, recommending, recording and dishing up all manner of worthy product. Yes, it’s the New Golden Age of Television, but I miss the old idiot box. It made me feel less stupid.

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