

On Live Streaming and Competition

 rabbinicalassembly.org/story/live-streaming-and-competition

Prepared by Rabbi Ariel Stofenmacher.

Please note that this is not an official responsum of the CJLS.

The advances in communications technology and the Covid 19 pandemic have encouraged congregations to go online in order to try to better serve their constituencies. The recent responsum approved by the CJLS on [Streaming on Shabbat and Yom Tov](#) by Rabbi Joshua Heller gives halakhic guidance on this matter.

A new reality emerges, as the ease of cyberspace generates closeness, and every "virtual minyan" and "virtual classroom" is at the distance of a click in any and every computer all over the world, breaking physical boundaries and barriers. We are all now in the same neighborhood.

On the one hand, this situation of cyberspace enables congregants to have more choices; on the other hand, it throws synagogues into a new competitive world. Those congregations that hold in-person davenning, whether attendance is minimized or not, may attract interest from those wishing an in-person davenning experience. Even those congregations that refrain from holding both live-streaming (due to a desire to keep Shabbat and Yom Tov technology/screen free) and in-person davenning (because of the danger of transmission of the disease) and therefore try to enhance the liturgical and spiritual experiences during the month of Elul leading up to the High Holidays and between Rosh Hashanah and Yom Kippur may find congregants from other congregations joining with them.

And even though the Talmud encourages competition in Torah education, as it is stated in Talmud Bavli, Bava Batra 21b-22a:

"דאמר מר, עזרא תיקן להן לישראל שיהיו מושיבין סופר בצד סופר, קנאת סופרים תרבה חכמה"

"Ezra instituted an ordinance for Israel requiring that they establish one teacher alongside another teacher (because) competition among teachers increases wisdom".

The Talmud does it only in Torah study, not in other religious services, as the Arukh Hashulchan rules in Yoreh De'ah 245:29:

"וכבר כתבו גדולי עולם שעכשיו המנהג שכל שיש רב בעיר- אסור לאחר לבוא בעיר ולהתיישב שמה,
והיא הסגת גבול וגזל גמור"

"And the great sages of the world already wrote that now the custom is that when there's a rabbi in town, it is prohibited for another one to come and settle there (as a community rabbi in competition), and it is (a violation of) hasagat gevul (trespass) and robbery without a doubt."

It is crystal clear that there is a tension between offering people more diverse options and allowing congregations to serve their own constituencies and to maintain their sources of institutional livelihood.

Jewish tradition embraces free entrepreneurship, but at the same time emphasizes the common good. Many congregations rely on our High Holy Day season as prime time for fundraising efforts, engaging current congregants, and recruiting new members, and congregation leaders worry about competition from neighboring congregations holding in-person holiday services, whether a minimal minyan or a larger number in attendance, or from other congregations producing more professional appearing live streaming and/or video streaming services. We aspire to a higher standard for our congregations than regular business operations.

Therefore, we suggest that congregations should maximize their efforts in order not to violate the ethical and halakhic principle of hasagat gevul (trespass), expressed in the Torah as infringement of physical boundaries: לא תסיג גבול רעך - Thou shall not trespass your fellow's boundaries (Deut 19:14), and interpreted in rabbinic literature as unfair competition (See Moshe Feinstein, Igrot Moshe, Hoshen Mishpat 1:38).

Some of the suggested actions would include:

1. Coordinate fees for participation between synagogues in the same area, in order to avoid price competition.
2. Encourage technical collaboration between wealthier and poorer synagogues and between congregations with more technical expertise and those with less.
3. Encourage partnerships between synagogues to stream together on the High Holidays.
4. Encourage partnerships between congregations in classes and workshops enhancing the season of repentance during the month of Elul and between Rosh Hashanah and Yom Kippur.
5. Gear the services of a synagogue only to members.
6. Refer members of other synagogues to their original ones.

Some sources on Hasagat Gevul:

- Encyclopedia Judaica Online, "Hassagat gevul"
- מנחם אלון, המשפט העברי, מהדורה שלישית, הסגת גבול ברבנות, דפים 715, 642, 329.
- Sefaria, on "competition"
- אנציקלופדיה התלמידות, כרך ט, ערך הסגת גבול.

General Background:

- Aaron Levine, Free enterprise and Jewish Law, Ktav, NY, 1980.
- Meir Tamari, With all your possessions, Free Press, NY, 1987.