



Unveiling Online Digital Piracy in the Indian Film Industry: An Overview of Indian Copyright and Technology Laws

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Piracy often reflects market failures on the part of producers rather than moral failures on the part of consumers.

-Henry Jenkins

Abstract:

The Indian film industry, commonly known as Bollywood, has witnessed a significant rise in online digital piracy, posing substantial challenges to the protection of copyright and intellectual property rights. This research provides an in-depth overview of online digital piracy in the Indian film industry, examining the associated legal and technological aspects within the framework of Indian copyright and technology laws.

The objective of this study is to understand the nature and extent of online digital piracy in the Indian film industry and to analyze the effectiveness of existing copyright and technology laws in addressing this issue. The research employs a multidisciplinary approach, encompassing legal analysis, technological perspectives, and industry insights to provide a comprehensive understanding of the subject matter.

The study begins with an exploration of the Indian film industry's significance and the impact of online digital piracy on its economic sustainability. It delves into the various forms of online piracy prevalent in the industry, including unauthorized streaming, illegal downloading, and the distribution of counterfeit DVDs. Furthermore, it

examines the motivations and behaviors of consumers engaging in online piracy, shedding light on the underlying factors that drive this phenomenon.

Subsequently, the research analyzes the legal framework governing copyright and technology in India. It critically assesses the Copyright Act, 1957, and its subsequent amendments in light of the challenges posed by online digital piracy. The study examines the provisions of the Information Technology Act, 2000, and related regulations that pertain to online copyright infringement, intermediary liability, and digital rights management.

In addition to the legal analysis, the research investigates the role of technology in facilitating online digital piracy. It explores the emergence of peer-to-peer file-sharing networks, streaming platforms, and torrent websites that have become prevalent mediums for copyright infringement. The study also evaluates the effectiveness of technological measures, such as digital rights management systems and watermarking, in deterring piracy and protecting the rights of content creators.

Furthermore, the research provides insights into the enforcement mechanisms employed to combat online digital piracy in India. It examines the role of law enforcement agencies, intellectual property rights holders, and industry associations in detecting and taking action against infringing activities. The study also explores the challenges faced by these stakeholders in terms of jurisdictional issues, cross-border enforcement, and the identification of infringers in the online environment.

Based on the findings, the research proposes recommendations and policy implications to strengthen the legal and technological framework for combating online digital piracy in the Indian film industry. These recommendations encompass the need for enhanced enforcement measures, awareness campaigns, collaboration between stakeholders, and the promotion of legitimate digital distribution platforms.

In conclusion, this research provides a comprehensive overview of online digital piracy in the Indian film industry, highlighting the complexities associated with copyright protection and technological advancements. By examining the intersection of Indian copyright and technology laws, this study offers valuable insights for policymakers, legal practitioners, content creators, and industry stakeholders to effectively address the challenges posed by online digital piracy and safeguard the rights of copyright holders in the Indian film industry.

Introduction:

The advent of the Internet has brought about a significant shift in the film and entertainment industry, challenging traditional notions of copyright protection under the Indian copyright regime. The widespread accessibility of the internet has enabled free and illegal access to copyrighted works, raising concerns about the effectiveness of copyright law and its ability to provide adequate protection. With the rise of the digital era, copyright law has

expanded to include works in any medium, but enforcement against violations and infringements remains lacking. Digital piracy, particularly in the creative copyright sector of the entertainment industry, has become a global concern.

Article 7 of the Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS)¹ emphasizes the objective of promoting and protecting intellectual property, striking a balance between the rights of right holders and the interests of the public. Copyright law, as a branch of intellectual property, seeks to fulfill this objective by distinguishing between public and private use of a work, deeming the former as infringement if accessed without authorization. Section 52 of the Indian Copyright Act, 1957 further exempts private use of copyright works from liability for infringement.

The internet, often referred to as the "world wide web," consists of interconnected networks that facilitate the rapid transmission and communication of information and content. Technology has propelled the internet to become the world's largest "copy" machine, as Kevin Kelly² aptly stated. The irony of digital content lies in the fact that "access to content" is equated with "control of content"³. This accessibility and ease of reproduction and dissemination of works at a low cost have led to concerns for content owners who experience loss of ownership and incentives for creators. When a copyright-protected work, initially intended for private use, becomes available on the internet, it becomes accessible to the public without cost. This transforms the dynamics from access to content to control of content for those who share it, undermining the significance of copyright and technology in the digital age, resulting in online digital piracy.

Consumer digital piracy in the media and entertainment industry has emerged as a devastating consequence of the internet and data digitization. Piracy practices, such as streaming, downloading, and sharing, make pirated versions of films available on the internet shortly after release through CAM, TC, DVDRip/BluRay formats. However, a change in the theoretical perspective that aims to limit piracy's impact, such as introducing neutralization techniques to reduce dissonance by understanding piracy determinants, may show promise in the long run.

The music industry has also been greatly affected by file sharing over the internet. Sharing copyrighted sound recordings has led to decreased revenues and profits for record labels. Over time, copyright owners have adopted a practical approach to meet consumer demand by improving online music distribution systems and embracing novel business models. This has resulted in the emergence of legitimate music distribution sources such as iTunes,

¹ *Trade Related Aspects of Intellectual Property Rights Agreement, 1995* https://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm

² *Kevin Kelly is the founding executive editor of Wired Magazine, and a former editor/publisher of the Whole Earth Review,* <https://www.youtube.com/watch?v=fOIRhMIOcfU>

³ *Sanjib Chakraborty, The Future Development of Copyright in India, Odisha Review, 90-100, 2013* <http://www.ipcsit.com/vol9/19-B006.pdf>

Spotify, Zunes, Pandora, etc. Licensing agreements have been granted to various online retailers, reducing the gap between offline and online releases and providing consumers with greater flexibility.⁴

Digital piracy in the film industry is still in its early stages, and although international and national copyright protection regimes have been put in place, they are ill-equipped to combat the rates of digital piracy in the industry. Therefore, this study focuses on copyright law's ability to balance the rights of the public and rights holders in the Indian entertainment industry, with a special emphasis on the film industry. The study aims to reassess copyright law, which is facing a crisis due to widespread infringement and disregard for the law through piracy in the virtual world of the entertainment industry.

The primary objectives of this study are as follows:

- Understand the phenomenon of online digital piracy and the factors contributing to its widespread occurrence in the Indian film industry.
- Examine the changing paradigms of the Indian film and entertainment industry, specifically regarding the application and implementation of copyright and technology
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The Indian Film and Entertainment Industry: Socio-economic Perspectives on Growth and Impact

The Indian Film industry serves as a representation of the sentiments and cultural aspects of the Indian community. Through stories that resonate with people from all walks of life, the industry captures the spirit of the country's diverse cultural heritage, languages, and ethnicities. Its influence extends both nationally and internationally, making it one of the largest film industries worldwide. Moreover, it plays a significant role in contributing to the country's GDP, generating substantial economic value.

In the financial year 2019-2020, the Indian film industry's estimated value was around INR 18,600 crores, and it is projected to grow at a Compound Annual Growth Rate (CAGR) of 9% by the financial year 2024-2025, reaching an estimated size of INR 29,900 crores. Despite the adverse impact of the Covid-19 pandemic on the Indian economy, the film industry remains resilient, producing the highest number of films compared to any other industry globally.

The Indian film industry encompasses not only the Hindi film industry, commonly known as Bollywood, but also various regional film industries such as Kannada, Telugu, Tamil, Malayalam, Bengali, and Marathi. Together, the regional and Hindi film industries certified 2,412 movies in 2019, which is twice the number certified a decade

⁴ J. Rogers, Re-Thinking Crisis in the Digital Economy: A Contemporary Case Study of the Phonographic Industries in Ireland, School of Communications, Dublin City University, 2010 <http://doras.dcu.ie/15700/>

earlier. Currently, the Hindi film industry accounts for 21% of the total number of movies produced but contributes approximately 40% of the total revenue earned by the Indian film industry.

In addition to the film industry, there are cinema screening and multiplex businesses. As of December 2019, the country had a screen density of 6.5 screens per million people, all of which were digitized. The Gross Output (direct) of the film industry in the financial year 2019-2020 is estimated at around INR 30,521 crores, with a Gross Operating Surplus of INR 1,587 crores, indicating the total returns on capital investment as well as direct taxes. Taking into account the direct, indirect, and induced economic impact of the Indian film industry, the Total Gross Output amounts to INR 92,326 crores.

The film industry directly employed approximately 2.56 lakh people and provided total employment, including indirect and induced employment, to 7.36 lakh people. Wage payments to contractual workers in the industry were estimated to be INR 3,796 crores in the mentioned financial year. The total direct impact of the film industry, encompassing gross output, gross operating surplus, gross value added, and NIT (Net Indirect Taxes), reached a significant INR 7,444 crores in the financial year 2019-2020.⁵

Unfortunately, film piracy has become rampant, transcending boundaries, and reaching an all-time high, particularly with the advancements of the digital age. The efforts and guilt associated with piracy have declined, and the Covid-19 pandemic has exacerbated the problem. Reports indicate a 62% increase in online digital piracy of films in India during the nationwide lockdown compared to just a month prior⁶. This is despite approximately 71% of the Indian population being aware of the illegality of producing and sharing pirated content, and 64% recognizing that streaming and downloading pirated content are equally unlawful⁷.

To address the issue of piracy, it becomes crucial to consider more stringent legal measures as the existing legal framework appears to be failing. Despite the presence of "take down notices"⁸ under the IT Act and the issuance of John Doe orders against perpetrators, consumer behavior continues to resist change, highlighting the ineffectiveness of the current copyright regime. It calls for a change in the business model to achieve a balance of rights and obligations between creators and the public. The unorganized Film Piracy Industry

Protection of Cinematographic films: Legal provisions and Judicial Pronouncements in focus:

⁵ Report by Deloitte in association with Motion Pictures Dist. Association (India) Pvt Ltd, Economic Contribution of the Film and television industry in India in 2017, 2018, https://www.mpa-apac.org/wp-content/uploads/2018/05/India-ECR-2017_Final-Report.pdf

⁶ Lata Jha, India seeks big spike in film piracy post Covid 19, 2020 <https://www.livemint.com/news/india/india-sees-big-spike-in-film-piracy-post-covid-19-11589183182123.html>

⁷ IDERTO Report on Despite High Levels of Awareness in India that Piracy is Illegal, 66% of Consumers Polled Still Access Pirated Content <https://irdeto.com/news/irdeto-research-despite-high-levels-of-awareness-in-india-that-piracy-is-illegal-66-of-consumers-polled-still-access-pirated-content/>

⁸ Information Technology Act, 2000, Section 79 http://www.dot.gov.in/sites/default/files/itbill2000_0.pdf

A cinematograph film, as defined in the law, encompasses both the visual recording and any accompanying sound recording, if present⁹. It also includes any work produced through a process similar to cinematography, including video films. This definition, as stated in Section 2(f), is comprehensive, as affirmed in the case of *Entertaining Enterprises vs. State of Tamil Nadu*¹⁰. According to this ruling, recording movies on a video tape and subsequently exhibiting them on television is considered a process similar to cinematography. The producer of a cinematograph film is considered its author and also holds the copyright to the film¹¹. The Copyright Amendment Act of 2012, in line with international agreements such as the WCT and WPPT, incorporates provisions for anti-circumvention measures within the Copyright Act of 1957. This ensures that India remains aligned with the technological and legal policies established internationally.

Section 14(d) of the Copyright Act grants the owner/author of a copyright the exclusive right to broadcast their work. The term "broadcast" in this section refers to the public communication of the work through wireless diffusion or wired means. This communication can take the form of signs, sounds, or images. It includes both initial broadcasting and rebroadcasting. Under the Indian Copyright Act, "communication to the public"¹² is defined as making a work available for viewing, hearing, or other forms of enjoyment by the public, either directly or through display or diffusion methods. However, it does not include the physical distribution of copies of the work. Such display or diffusion can occur simultaneously, where all members of the public experience the work at the same time, or at different times. It is irrelevant whether the public actually views, hears, or enjoys the communicated work. Section 65 of the Copyright Act pertains to "copy control protection" rather than "access control protection."

Therefore, unauthorized broadcasting of a film on cable television to paying subscribers constitutes copyright infringement and violates the exclusive rights of the copyright holder. This definition encompasses the communication of information or content through the internet as well, following the Copyright (Amendment) Act of 2012.

The copyright holder possesses specific exclusive rights over their work. In the case of cinematograph films, these rights include making copies of the movie in any form, such as photographs of scenes or storage in any medium; selling, commercially renting, or offering copies of the movie; and communicating the movie to the public. However, engaging in these acts without permission from the author/owner constitutes infringement. In India, the amendment to the Cinematograph Act of 1952¹³ in early 2019 criminalized illicit camcording in cinema theaters, which was recognized as an important step toward effectively enforcing and safeguarding intellectual property

⁹ The Copyright Act, 1957, Sec 2(f) <http://www.copyright.gov.in/Documents/Copyrightrules1957.pdf>

¹⁰ *Entertaining Enterprises vs State of Tamil Nadu* (AIR 1984 Mad 278)

¹¹ The Copyright Act, 1957, Section 2(d)(v)

¹² The Copyright Act, 1957, Section 2(ff), <http://www.copyright.gov.in/Documents/Copyrightrules1957.pdf>

¹³ Information Technology Act, 2000, Section 6AA read with Section 7

rights. Nevertheless, a significant concern with this amendment is that the Cinematograph Act primarily addresses restrictions on theatrical piracy rather than online piracy.

Furthermore, the Indian film and entertainment industry is a significant generator of employment opportunities. It employs a wide range of professionals, including actors, directors, technicians, writers, musicians, and support staff. The industry's growth leads to direct and indirect job creation, providing livelihoods to a diverse workforce. This employment generation contributes to poverty alleviation and economic development, particularly in regions with a strong film presence.

Section 51 of the Copyright Act, 1957 distinguishes between primary and secondary acts of infringement. Primary acts involve situations where a person carries out an act that is the exclusive right of the copyright owner. It also includes allowing, for profit, any place to communicate copyrighted work to the public without knowledge that such communication constitutes infringement. These acts must be done without a license from the copyright holder or the Registrar of Copyrights. If a license has been obtained, the act must still violate the terms and conditions of the license. Secondary acts of infringement include selling, hiring, displaying for sale, offering for sale or hire, exhibiting in public by way of trade, or distributing infringing copies of a copyrighted work without the permission of the copyright holder.

Both offline and online acts of piracy can fall under primary and secondary infringement. Offline piracy involves distributing and publicly communicating copyrighted content without authorization for commercial gain, constituting primary infringement. On the other hand, online digital piracy constitutes secondary infringement when films are exhibited on internet platforms and search engines for unauthorized downloading, streaming, and sharing by infringers.

Internationally, there is currently no specific legal remedy or principle governing digital and internet piracy. While some progress was made through agreements like the Comprehensive and Progressive Agreement for Trans Pacific Partnership (CPTTP 11)¹⁴ and the Anti-Counterfeiting Trade Agreements, these initiatives faced significant criticism and protests in several countries due to concerns about freedom of expression, isolation, and privacy. As a result, the enforcement and effectiveness of these agreements were hindered. Addressing the challenges posed by modern piracy requires the development of entirely new international treaties and agreements suited to the digital age.

The safe harbor provisions under the Information Technology Act appear to provide broad protection to rogue and aggregator websites. Sections 79 and 81 of the IT Act, along with Section 51(a)(ii) of the Copyright Act, require

¹⁴ Comprehensive and Progressive Agreement for Trans-Pacific Partnership chapter 18
(<https://ustr.gov/sites/default/files/TPP-Final-Text-Intellectual-Property.pdf>)

online intermediaries to have actual knowledge, rather than general knowledge, of infringement in order to seek specific relief and specify the exact content being infringed upon¹⁵. Section 79, which deals with secondary liability for copyright infringement, may not be applicable to websites that knowingly provide pirated copyright content and act as platforms for users to share and download such content. These websites are rightly suspected of having knowledge about the infringements taking place.

Furthermore, the three-strikes mechanism (Notice-and-Take-Down/Notice-and-Stay-Down) currently prevalent in India is primarily applied to content on platforms like YouTube. Research conducted in countries like Germany and France has shown that the application of graduated responses as a mechanism to combat copyright infringement in the film and entertainment industry is not very effective. Perpetrators eventually become immune to the system, rendering the legal implications ineffective. Empirical data suggests that while such measures may streamline the copyright regime in the long run, the drawbacks of the system, including penalties such as internet disconnection for users and violations of the right to free speech and privacy through user monitoring, cannot be ignored¹⁶.

In fact, some cases have indicated that jurisdictions with higher levels of protection mechanisms and stricter consequences for law violations tend to have higher piracy rates. The more safe harbor mechanisms are employed to protect ISPs' secondary liability, the greater the likelihood of consumers resorting to illegitimate websites like Pirate Bay to access copyrighted content.

The recently passed Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, while providing for due diligence mechanisms for intermediaries and online curate content, do not specifically incorporate provisions to restrict online piracy of copyright content¹⁷.

In terms of judicial intervention to address piracy issues, Indian courts have utilized remedies such as Anton Pillars orders¹⁸. However, in many cases, these orders have not effectively achieved their intended objectives due to difficulties in identifying the infringer. Consequently, Indian courts have devised what are known as Ashok Kumar/John Doe¹⁹ orders, which enable searches of the defendant's premises and seizure of infringing goods²⁰. While these orders are applicable to offline copyright infringement cases, it becomes even more crucial to have

¹⁵ ESYA Report on Trends in Copyright Infringement and enforcement in India, (2019)

<https://static1.squarespace.com/static/5bcef7b429f2cc38df3862f5/t/5dee10b8af06d83e3e65ed2b/1575882943779/Esya+Cent+re++Copyright+Infringement+and+Enforcement.pdf>

¹⁶ Antoni Terra, Copyright Law and Digital Piracy: an Econometric Global Cross National Study, NORTH CAROLINA JOURNAL OF LAW & TECHNOLOGY Vol 18, Issue 1, 69-117, 2016

<https://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=1320&context=ncjolt>

¹⁷ INFORMATION TECHNOLOGY (GUIDELINES FOR INTERMEDIARIES AND DIGITAL MEDIA ETHICS CODE) RULES, 2021 <https://www.meity.gov.in/content/notification-dated-25th-february-2021-gsr-139e-information-technology-intermediary>

¹⁸ Souvik Bhadra, Arka Majumdar, Anton Piller Order in UK and its Possible Implications in India, Journal of Intellectual Property Rights, Vol 12, 488-496, 2007,

<http://docs.manupatra.in/newsline/articles/Upload/01C250ED-5A41-4B35-8361-3CFB38064867.pdf>

¹⁹ The Civil Procedure Code, 1908, Order 39 Rule 1 and 2 read with Section 151

²⁰ Payel Chatterjee, 'What's in a name'... John Doe arrives in India, (https://www.nishithdesai.com/fileadmin/user_upload/pdfs/-What-s_in_a_name-_-_John_Doe_arrives_in_India.pdf)

remedies tailored to the functioning of the internet for online copyright infringement²¹ cases. However, the existing remedies are not sufficient as blocking a single URL is ineffective in preventing infringement since websites can provide infringing content by changing URLs²².

Recently, there has been a shift in the nature of injunctions issued in online infringement cases, including the use of Dynamic Injunctions²³. Countries like Australia, Sweden, and Singapore have been employing these injunctions for some time. In India, the Delhi High Court adopted this approach for the first time in the case of UTV Software Communication Ltd. v. 1337X²⁴, where it was determined that blocking can be an appropriate remedy for rogue websites, provided it is necessary and proportionately balances the right to speech, trade, and intellectual property rights. Similarly, countries like the UK follow Live Blocking of websites, wherein internet service providers (ISPs) block access to servers hosting live streaming during specific events. However, its applicability in India would depend on understanding if similar piracy operations exist in the country or not²⁵.

Unveiling Online Digital Piracy: Insights into its Inner Workings

The original meaning of piracy, which referred to the plundering and looting of ships by seafarers, has now evolved in the digital age to primarily denote the illicit copying and unauthorized downloading of digital content online. In the digital realm, piracy encompasses a wide range of content, including movies, music, video games, and e-books. Various forms of piracy exist, such as counterfeit, internet piracy, end-user piracy, client-server overuse, and hard-disk loading. Among these forms, counterfeiting and internet piracy are the ones most closely associated with the piracy of films, movies, and songs in the entertainment industry.

Counterfeiting refers to the illegal acquisition, duplication, and distribution of copyrighted material that closely imitates the original copyrighted product. This can involve various forms of distribution, including sales or other methods. One prevalent mode of distributing pirated works is through compact discs. On the other hand, internet piracy involves downloading files from the internet or acquiring software online, often through compact discs. Internet piracy can occur through websites offering free downloads of software, auctions selling unlawfully obtained software, or peer-to-peer (P2P) servers that facilitate the transfer of programs.²⁶

²¹ Taj Television & Anr. v. Rajan Mandal & Ors (2003) F.S.R. 22.

²² Department of Electronics and Information Technology v. Star India Pvt. Ltd., 2016 SCC Online Del 4160; Star India Pvt. Ltd. & Anr. v. Haneeth Ujwal & Ors. CS(OS) 2243/2014 decided on 28 July, 2014; Balaji Motion Pictures Ltd. v. Bharat Sanchar Nigam Ltd., 2016 S.C.C. OnLine Bom 10311

²³ Pratik P. Dixit, Dynamic injunctions against Internet intermediaries: An overview of emerging trends in India and Singapore, Journal of World Intellectual Property, Vol. 23(2), 65-74, 2019 <https://doi.org/10.1111/jwip.12140>

²⁴ UTV Software Communication Ltd. v. 1337X., 2019 SCC OnLine Del 8002.

²⁵ ESYA Report on Trends in Copyright Infringement and enforcement in India, (2019) <https://static1.squarespace.com/static/5bcef7b429f2cc38df3862f5/t/5dee10b8af06d83e3e65ed2b/1575882943779/Esya+Centre++Copyright+Infringement+and+Enforcement.pdf>

²⁶ OECD Report on The Economic Impact of Counterfeiting and Piracy, 2007 <https://www.oecd.org/sti/38707619.pdf>

Films and movies with copyrighted content are made available on the internet through various means worldwide. These include²⁷:

1. Content offered on OTT platforms that require paid subscriptions.
2. Content accessed through cyber lockers, which are online storage platforms.
3. Content obtained by ripping from sources such as cinemas, Blu-Ray discs, online services like iTunes and OTT platforms, and subsequently shared on websites like BitTorrent, Daily motion, and applications like Telegram.
4. Content streamed or rebroadcast from local TV stations or live TV.

These rogue websites or host aggregators then generate revenue through methods such as advertising, subscription fees, exposing users to malware, and even resorting to content ransom.

Unraveling Factors in Online Digital Piracy: The Evolving Landscape of Content Consumption Mediums

Over the past decade, there has been a significant transformation in consumption patterns due to the emergence of new innovations. Until 2005, traditional physical sales like cassettes and optical discs were the primary sources of revenue in the industry. However, this trend changed in 2006, marking a historic shift. Currently, India ranks among the top countries in terms of time spent on smart phones. The popularity has shifted towards non-physical elements such as Smartphone downloads and internet usage.

Previously, piracy predominantly occurred through CDs or DVDs. However, with the advancement of the internet and storage options, users now prefer downloading music or movies and storing them in online platforms. This transition indicates that physical piracy has relocated to the realm of cyberspace. Individuals now have the ability to create their personal digital libraries, granting them access to illegally downloaded content from any location. Moreover, they have the freedom to share this access with numerous individuals, thereby generating their own revenue streams²⁸.

Participating in acts of piracy can be attributed to a person's behavioral tendencies, which are influenced by their cultural background. Hostede conducted research on the relationship between cultural dimensions and consumer

²⁷ IPO Report, Cracking down on digital piracy,2017 <https://www.fact-uk.org.uk/files/2017/09/Cracking-Down-on-Digital-Piracy-Report-Sept-2017.pdf>

²⁸ Deloitte Report on Indian Music Industry, Audio OTT economy in India – Inflection point, 2019, [https://www2.deloitte.com/content/dam/Deloitte/in/Documents/technology-media-telecommunications/Audio-OTT-Economy-in-India_web_v3%20\(1\).pdf](https://www2.deloitte.com/content/dam/Deloitte/in/Documents/technology-media-telecommunications/Audio-OTT-Economy-in-India_web_v3%20(1).pdf)

behavior, and he concluded that the culture in which an individual is raised plays a significant role in shaping their traits as both a member of a community and as an individual.

A study conducted by Hofstede in the late 1980s provided evidence that cultural dimensions, such as the power distance index and the balance between individualism and collectivism, are crucial factors in understanding consumer behavioral traits in India. In this context, a higher power distance index and a collectivism index contribute to behaviors that involve delinquency and are influenced by the dominant inclinations of the majority population in the community.²⁹

Applying these findings to the present context to explain the reasons behind consumer inclination towards piracy, it can be suggested that the cultural dimensions continue to play a significant role. These cultural factors are responsible for the higher prevalence of digital piracy in India, shaping the attitudes and behaviors of individuals in relation to intellectual property infringement.

The Routine Piracy Theory in criminology emphasizes that the lack of consequences is the primary driving factor behind consumers' inclination towards online digital piracy³⁰. When individuals perceive a low risk of facing repercussions for their actions, it encourages them to engage in piracy as both perpetrators and users.

The Opportunist Consumer Behavior theory also plays a significant role in shaping consumers' attitudes towards watching pirated content³¹. Attitude, a powerful aspect of human psychology, can convince individuals to participate in digital piracy despite knowing that their actions are morally, socially, and legally wrong, and that they cause significant losses to the copyright industry³².

Additionally, studies indicate that the increase in internet piracy can be attributed to the lack of clarity and a harmonized approach in applying limitations and exceptions to copyright-protected works online³³. During the Covid-19 pandemic, changes in content consumption trends occurred in two ways: people preferred staying at home and consuming entertainment sources, while media distributors seized the opportunity to develop their own direct-to-consumer streaming services. Although this growth is promising, convincing the majority of consumers to pay a

²⁹ Hofstede, G, Dimensionalizing Cultures: The Hofstede Model in Context, Online Readings in Psychology and Culture, Vol 2, Issue 1, 2011, <https://doi.org/10.9707/2307-0919.1014>

³⁰ Alex Towers, 'Routine Piracy: Digital Piracy and Routine Activity Theory' Vol 1 Inns Student L Rev 19-32,(2011) http://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/kingsinslr1§ion=7

³¹ J. Liang and I Phau, "Comparisons of attitude towards digital piracy between downloaders and non-downloaders", in proceedings of the Korea Scholars of Marketing Science Conference 2012, Korean Scholars of Marketing Science, 2730-2749.

³² Jasper V. George, Consumer Behaviour vis-à-vis Digital Piracy and Copyright Infringement, Journal of Intellectual Property Law, Issue 5, ISSN 2455-0361

³³ Darrell Panethiere, The Persistence of Piracy: The consequences for Creativity, for Culture and For Sustainable Development, REPORT BY THE GLOBAL ALLIANCE FOR CULTURAL DIVERSITY, UNESCO, 2005 <https://unesdoc.unesco.org/ark:/48223/pf0000145517>

premium for streaming movies at home may take time. This factor contributes significantly to the surge in online piracy globally during the pandemic.

Among consumers who have not paid to watch premium Video-on-Demand (VoD) movies, cost remains the top influencing factor³⁴. Other factors contributing to consumer inclination towards online piracy include the easy and cheap availability of content on platforms such as BitTorrent and Telegram, high movie ticket prices and the inconvenience of visiting theaters, unavailability of certain copyrighted content on cable or due to non-subscription to OTT platforms, lack of awareness about content being pirated, and the absence of stringent legal measures to penalize wrongdoers³⁵.

The correlation between consumer behavior and online digital piracy: Empirical study

Online digital piracy has become a pervasive issue in the digital age, with consumers engaging in unauthorized distribution and consumption of copyrighted content. Understanding the correlation between consumer behavior and online piracy is crucial for developing effective strategies to combat this problem. To investigate this correlation, a mixed-methods research approach was employed, combining qualitative interviews and quantitative surveys to gather comprehensive data.

The qualitative interviews involved a diverse sample of participants, providing insights into their attitudes, beliefs, motivations, and experiences related to online piracy. The findings consistently indicated that consumer attitudes play a significant role in piracy engagement. Many individuals justified their actions based on factors such as high content prices, limited availability, or dissatisfaction with existing distribution models. These attitudes, driven by perceived unfairness or discontent, shape consumer behavior and contribute to the prevalence of online piracy.

Furthermore, convenience and accessibility emerged as influential factors in consumer engagement in online piracy. Research data revealed that consumers find it easy to access pirated content through various platforms, such as torrent websites or streaming services. Participants cited the convenience, cost-effectiveness, and wider availability of pirated content as reasons for their engagement in piracy. This ease of access, combined with the affordability and variety of pirated content, influences consumer behavior and contributes to the growth of online piracy.

The perceived lack of consequences also emerged as a significant driver of consumer engagement in online piracy. Participants believed that piracy carried minimal risk of legal repercussions due to limited enforcement measures

³⁴ Andrew Wallenstein, Premium VOD films have a pricing problem, *Variety*, July 28, 2020
<https://variety.com/vip/premium-vod-films-have-a-pricing-problem-1234717320/>

³⁵ Intellectual Property office Research, UK, *Online Copyright Infringement Tracker*, (March 2017) (ISBN: 978-1-910790-28-1)

and lenient penalties. This perception of impunity creates an environment where consumers feel more inclined to engage in piracy activities, further perpetuating the problem.

Technological advancements have also played a substantial role in shaping consumer behavior in relation to online piracy. The availability of high-speed internet connections, streaming platforms, and file-sharing technologies has made it easier for consumers to engage in piracy. Peer-to-peer file sharing and streaming services have facilitated the widespread distribution of pirated content, contributing to the growth of online piracy.

Conclusion:

It is evident that technology is advancing at a much faster pace than the law in the present times. The issue of piracy should not be solely attributed to consumers, as they are taking advantage of the silent and insufficient laws in place. The true culprits are those who actively involve end users in piracy activities. To combat piracy effectively, it is necessary to implement deterrent laws and policies. Existing provisions under copyright and technology laws need to be strengthened to address illicit streaming and downloading activities at their source of origin. Controlling online piracy requires a comprehensive enforcement mechanism on a nationwide scale, along with international policy regulations.

Alternatively, if copyright content in films and movies is made readily available to viewers on their terms and convenience, there may be a reduction in piracy rates. However, this approach may contradict the fundamental principles behind granting copyright monopoly to the original content creators in the film industry.

Although the film industry may not be significantly impacted in terms of major revenue losses, smaller production houses may bear the brunt of piracy. Moreover, due to the Covid-19 pandemic, reports indicate a significant surge in the consumption of pirated content. Platforms like Telegram witnessed a staggering 1092% increase in piracy by September 29, 2020, while the overall internet and mobile piracy saw a 348% increase.³⁶ OTT platforms reportedly lose around 50% of their subscription revenue to piracy, resulting in a 30% overall revenue loss.³⁷

Another concern affecting the OTT industry is subscription mooching, where individuals use someone else's account credentials to access streaming services without paying for them. This practice reduces piracy as movies are available on streaming platforms, even though subscription mooching is unauthorized. Additionally, leaked

³⁶ Megha Mandavia, A Napster moment for online video and music platforms in India as piracy soars in lockdown, September 2020 <https://economictimes.indiatimes.com/tech/internet/a-napster-moment-for-onlinevideo-and-music-platforms-in-india-as-piracy-soars-in-lockdown/articleshow/78379786.cms?from=mdr>

³⁷ Nisha Qureshi, As OTT platforms lose up to 50% subscription revenue to piracy, CII on war mode to tackle problem, February 2021, (<https://bestmediainfo.com/2021/02/as-ott-platforms-lose-up-to-50-subscriptionrevenue-to-piracy-cii-on-war-mode-to-tackle-problem/>)

login credentials of OTT platforms are being shared on social media apps like Telegram³⁸, further facilitating subscription mooching, which is an illegal method.³⁹

The e-commerce industry has employed administrator blocking as a measure to combat online piracy. However, reports suggest that website blocking in some countries has faced resistance from internet users due to concerns about violations of fundamental rights.

Therefore, the issue of piracy is prevalent and negatively affects the Indian film industry. Although this study has limitations in terms of scope and population survey, the existing facts indicate rampant piracy in the Indian film industry. Thus, it is crucial to devise policy regulations that strike a balance between the interests of content creators and users. The revenue distribution schemes should be revised to fulfill the interests of both content creators and distributors, while eliminating intermediaries and enabling direct content delivery to consumers.



³⁸ Zoe Bernard, People are using the messaging app Telegram to share pirated movies and stolen Netflix and Spotify accounts, 2018

<https://www.businessinsider.in/tech/people-are-using-the-messaging-app-telegram-to-share-pirated-movies-and-stolen-netflix-and-spotify-accounts/articleshow/63752901.cms>

³⁹ Stephen Lovely, Subscription Mooching and Streaming media, 2020

<https://www.paymentsjournal.com/subscription-mooching-streaming-media/>