Piracy & Pirates:
We've All Done It - Haven't We?
By Melissa Cogavin, Managing Editor, SCTE

The ongoing battle of illegal downloading continues, badly damaging content producers from live sport to streaming services and aiding criminal activity the world over. Antipiracy measures are widespread, but piracy remains more rampant than ever. Tech-savvy, morally ambivalent audiences are fuelling the problem but are they really the problem? Or are they the solution? Melissa Cogavin reports.

The English language is often praised for its richness, complexity, variety and depth. There is a word for everything, and often several words for just one thing. Occasionally though, we fall short. There is no third grammatical gender as in other languages; 'they/them' doesn't quite work but there is nothing better available. George W Bush famously asserted there is no word in French for 'entrepreneur', but there isn't one in English either, so we borrowed that one.

Meanwhile, where the practice of illegal downloading of content is concerned, we are stuck with the totally inadequate 'piracy'.

First described on a stone tablet in ancient Egypt, the earliest pirates were robbing what wasn't theirs even then, but there the similarity ends. 'Piracy' as a term for stealing content is woefully outmoded in 2023; it has ceased to encapsulate the scale of the problem; it suggests a manageable and binary 'us and them' dynamic. The term belies its multi-faceted, entirely fluid nature and is hopelessly inadequate when describing the processes, motivations and parties involved. Examining piracy in a digital context now, it is necessary to re-evaluate what piracy means to different people, who's involved, who's affected, who's gaining and why it is so rampant. How we can stop it might be worth looking at too.

Along with music, publishing and TV, the film industry has been besieged by piracy for so long and failed so often to combat it that, like Brexit, it has become a bit of an embarrassment, something studio execs would rather not discuss; they have learned to live with it, at the galling cost of 490,000 downloads a day (increasing month on month) for films and TV worldwide, costing the industry between $1.3bn and £2.34bn annually.

'Learning to live with it' has some history. Hollywood's 3D revival in the 2010s was an attempt to foil 'cam-rip' pirates capturing movies in theatres with video recorders – this is before streaming took hold.

Hugely expensive with massive hype, instead of taking off to the extent that producer and 3D evangelist Jeffrey Katzenberg had hoped - where happy filmgoers would be clamouring for designer 3D glasses of their own to bring to theatres - audiences were turned off by endless, often hastily reworked 3D offerings, complaining of the cost and hassle and often opting for the 2D version, which would then be pirated immediately upon release. Studios soon realised only certain blockbusters worked in 3D anyway. Nobody wanted to see Downton Abbey in 3D.

Surely all this tech should have stopped piracy by now?

You would be forgiven for assuming that piracy would have been all but eradicated in 2023, as the Digital Revolution gets into every single area of our lives, every aspect of our behaviour and activities increasingly documented online. It is difficult to do anything anonymously with a smartphone in your hands these days; there is always a paper trail. A layman might well ask: how hard can it be to stop piracy when everything is digital?

David S Cohen is a journalist and producer and published a comprehensive analysis for Variety magazine in February this year. The New Face of Content Piracy made sage reference to the naïveté around digitalisation, which is probably one of the many reasons why we are in the state we're in. As recently as 2015, according to David, "at least one economist proposed that streaming would be the solution to piracy, but so far its advent has only served to accelerate it."

Living through a revolution, even one as relatively peaceful as a Digital one is an entirely subjective experience. Predictions are equally as subjective, and for a revolution as fast paced as this one, it is not surprising so many have got it so wrong, so often, at such catastrophic expense to those in the front line: the content producers.

Anti-piracy solutions abound, and it is big business; all make a dent in the problem, to an extent they all help to identify the source of the piracy, but none prevent it. We talked to Simon Brydon, Senior Director, Sports Rights Anti-Piracy at Synamedia, who produced a report recently, "Ampere analysis: financial impact of sport, movie and TV

Simon Brydon, Senior Director, Sports Rights Anti-Piracy Synamedia

piracy on the entertainment and subscription TV business", which spells out the impact in grim, forensic detail across multiple territories.

Simon reminded us of the scale of the problem. "There is an acceptance that content will be stolen from the OTT release (streaming service) within minutes. If it's released into cinema, there will be rip-cam versions within hours." He added, "There is an awful lot of content. In a lot of platforms, it becomes very tricky to watermark it all. It is possible to watermark live sport; that means you can shut down the illegal streams."

Wading through all this content is only a part of the problem, however. "The biggest change lately has been the pirates hacking the CDN (Content Delivery Network) to steal the content and hacking the OTT service, so that the legal owners are paying all of the costs for the delivery of the pirated content to the pirate users, which is the ultimate insult." It is easy to see why this is such an embarrassment.

Why is piracy so rampant?

It's expensive, keeping up with the Joneses. If you want to watch every box set being talked about on every major streaming service available, you're looking at at least £45 a month, and you probably will still miss the odd cup final, boxing match, Mandalorian or Succession. The extortionate cost of Sky is now being replaced by the aggregate cost per month for Amazon Prime, Netflix, Disney+, Paramount Plus, Now TV, for example.

Price points are achingly complex and sensitive. Studios have historically relied on the box office from a theatrical release to cover the marketing spend on a block buster; now, there are fewer theatrical releases, and they are having to rely on the revenue from streaming, often through third party services, where the revenue is split. Audiences are fickle and more informed than ever before. The old adage, nobody knows anything, in reference to the unpredictable nature of the film industry is more applicable than ever; while we may be living in a golden age of content, it is not easy to produce a viable hit.

Streaming services have proliferated in recent years and your average smart TV is now littered with content from mainstream studios, cheek by jowl with obscure apps catering to niche audiences, all offering a month's free trial, then slapping you with £6.99 a month if you fail to cancel. This is not a sustainable model, (though a Spotify-style aggregator for movie content is unlikely – consolidation is more so) but amid all this noise it is a golden opportunity for highly polished, professional piracy services masquerading as legitimate businesses, often even endorsed by major brands, offering you what appears to be something for nothing.

An early innovator, Netflix gamely gritted its teeth, in the red for years, taking the long view that eventually the gamble would pay off, raising their prices incrementally over time, producing their own increasingly acclaimed content, but nobody saw a pandemic or a cost-of-living crisis coming. Neither did Netflix expect a behemoth like Disney to pivot so quickly and bring forward their own launch to capitalise

on millions cooped up at home during lockdown. The fierce competition that followed has provoked two outcomes: Disney has hoovered up millions of subscribers from Netflix, and people are reducing their outgoings altogether, opting for two services, three at most on average. Such is the impact that in the Philippines and Kenya, Netflix have been forced to reduce their subscription prices to remain competitive, not part of the business plan at all. It is cold comfort to Netflix that Disney have also recently announced thousands of redundancies.

In addition to a saturated market and pressure on consumers, content providers themselves are not protecting their own interests as well as they could be. According to Greg van der Gaast, a former hacker turned FBI undercover operative whom we hear from on page 62, "People are still not building systems or maintaining them properly, they're still not doing asset inventory. They're not patching properly, they have poor processes, they have a lack of consistency. You're basically living in a house with a thousand doors and windows, and some are constantly being left open."

As if things aren't bad enough, the very definition of what a pirate is, what to call them and how to deal with them is the subject of ongoing debate, and there seems to be little consensus even within the industry. In David S Cohen's report, he describes one media industry leader even queasy with the term 'pirate', preferring the more respectful title 'supplier of pirated content'. The more militant feel that anyone downloading content illegally is by definition a pirate and should be punished accordingly. Others are uncomfortable with ordinary people being categorised alongside career criminals and gangsters.

It can't hurt, can it?

Semantics aside, it is clear from various research conducted by Variety, Akamai, Synamedia, Viaccess-Orca and the Office for National Statistics for this piece that there is a disconnect at work. It is bit like eating meat; on one level we know animals suffer to provide us with a bacon sandwich, but we are sufficiently able to compartmentalise that in order to eat a meal. Likewise, ordinary people downloading an episode of Stranger Things recognise on one level they probably shouldn't do it and are possibly even aware that down the line this might be aiding international drugs and trafficking trade, but they're doing it anyway.

"I think when it comes to actively proactively going out and finding illegal pirate services, it is very rare that the person doesn't know it's wrong," said Simon, although it does happen. Illegal download sites are a far cry from the early BitTorrent interfaces of 2005, when downloading a movie over a dial-up modem was so laborious and off-putting it was easier and quicker to just go to the cinema. Now, they are highly polished

Piracy is multi-billion dollar problem

Across the seven countries surveyed, sports piracy leads to annual losses of $9.8bn and movie and TV piracy, a further $21.8bn

The US market is the most heavily impacted with losses to sport piracy of over $5bn a year and an additional $13.7bn to movie and TV piracy

In other markets sport piracy ranges from $200m (Thailand) to $1.2bn (UK) a year and movie & TV piracy from $470m (Thailand) to $2.3bn (India) a year.

Traditional cable and satellite is the biggest loser to sport and movie piracy accounting for more than half of all revenue lost to piracy

Major movies and franchise TV seasons are capable of driving between $130m and $280m of revenue to legitimate streaming platforms if piracy was stopped

Combined, 28 of the most pirated movies and TV shows accounted for $1.8bn in annual losses for the studio streamers in the US

Across the seven countries surveyed streamers are losing nearly $10bn a year to piracy and a significant number of subscribers

Piracy of major super-hero blockbusters that were made available on streaming platforms was particularly impactful on potential revenue loss

AMPERE
ANALYSIS

© Ampere Analysis 2023

and professional, featuring pop-up ads from unwitting major brands on every page. A novice could be forgiven for thinking they had visited a legitimate streaming service.

In a report produced by Akamai last year the view on piracy is "closer to a complete perception shift. For some people, since the content isn't physical, downloading a copy or re-streaming an event isn't perceived as theft. The original remains — or the broadcast still took place. Therefore, such actions harm no one, right?"

Simon agrees but goes further. "There is also an acceptance that you're very, very, very, unlikely to get caught, or that there's any consequences for it."

In the early 2000s an ad appeared in UK cinemas and at the start of all DVDs that most people of a certain age will remember. "You wouldn't steal a car, you wouldn't steal a handbag," began the titles, and it seeped into our collective memories. It was cheesy but it worked, and that lack of messaging in recent times has likely impacted a generation. Teenagers now have no such direction, awareness or sense of consequence, and copyright in a digital world is a very moveable feast.

It is easy to assume that pirated material takes place at the fringes, where nobody pays for anything, but that is not the case. Simon points out that "there's actually a correlation between pirate consumption and the number of OTT services the user has, and it's actually you're more likely to pirate content, the more you're paying for legal content." Which stands to reason. "The likelihood to pirate content increases with the amount of subscription video services you have access to." In the Ampere report, the respondents were 91% more likely to pirate content if they had 5+ subscriptions already to streaming services, throwing another misconception about those evil pirates out of the window.

Everybody's at it

Credential sharing, the practice of handing out your login and passwords to friends and family, is hardly in the same bracket as organised crime on a global scale, but it is still considered piracy, which again raises questions about its fluid definition.

Netflix are the worst affected by this, being the earliest on the market, and arguably the slowest to react. They are currently busy executing a high-profile campaign re-educating their subscribers about the hazard (to them) of sharing passwords.

Admirable, but it is perhaps locking the stable door long after the horse has bolted. The problem is extremely widespread; no amount of education or PR will put the genie back in the bottle now, and it is utterly unenforceable. Last year even the former Secretary of State for Culture, Media and Sport Nadine Dorries boasted about sharing her passwords with family members all over the country to a televised Commons Select Committee, complimenting Netflix on an "incredibly generous system." Credential sharing is less a crime and more indicative of fast-moving technology and poor communication around its protocols, but Simon was keen to point out the difference between benign familial sharing of passwords in good faith compared with, "frankly, abuse."

Synamedia feels there is little point in educating a populace who do not recognise a crime when they are downloading content illegally. In their own research produced earlier this year, they found that "75% of sports fans they interviewed say they believe sports streaming piracy is morally wrong, yet they continue to use illegal services to watch their teams."

Conversely, Viaccess-Orca do feel that education needs to look more broadly at the impact of accessing illegal content provides a ready-made route into domestic homes for cybercriminals. Certainly, identity theft and data mining are common problems experienced by audiences in the APAC area using download sites, and it is a growing problem in North America and Europe; if you've made it onto one of those sites, you're already in a murky ethical area, why would pirates stop at your identity, after all? Their view is this approach is an effective deterrent if employed widely.

Clearly, there is little joined-up thinking across the industry and the concern is this will only slow down the messaging and confuse the viewer further.

Bang to rights

Occasionally the law will come down hard, making an example of culprits and headlines worldwide. High profile court cases might convict lone individuals downloading content (rarely though; the most recent was exceptional and involved a real-life Robin Hood from Liverpool who shared his Netflix credentials with thousands of people for nothing; he is currently in jail). Pirates are caught and imprisoned but not as frequently as you would expect, given the infrastructure available to make it happen. In Taiwan just last week the creators of an illegal download site, 8maple were sentenced to 18 months in prison and $2m of their earnings were seized. According to

Andy Maxwell at Torrentfreak, the judge presiding remarked, in a masterclass of understatement, that they possessed a 'weak sense of the law'.

In addition to education, there are plenty of ideas and solutions to prevent piracy, ranging from calls to make pirated content such poor quality as to render it unwatchable, to Simon Brydon's suggestion of "imposing stricter contractual requirements on streaming services."

With so little cohesive thinking across the industry and the technology developing so fast, there is little hope that any of these initiatives will take hold.

Well, that was unexpected

You have to feel for the content producers in all this. Squeezed on all sides, an increasingly tech savvy, cost-conscious audience to appeal to, prosecuting one pirate is like smashing a cockroach with your shoe only for 50 others to spring out of the floorboards at you (which happened to me once in Australia. I am obviously not quite over it). Worse, every cockroach is robbing you blind.
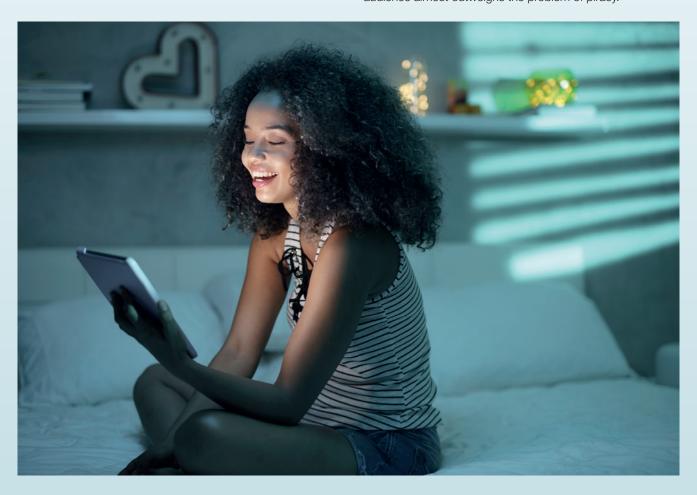
At this stage in our story nobody is expecting good news, but it turns out that something positive is emerging out of all this gloom. Muso is a London-based data company that provides content owners with a comprehensive overview of all global piracy and unlicensed media consumption. The company specialises in monitoring all major forms of piracy activity, supplying the data they glean to publishers, record labels, studios and TV networks.

**Andy Chatterley,
Founder and CEO, Muso**

Founder and CEO Andy Chatterley explained that "after about six or seven years of protecting content, we realised we were just sitting on this absolute mountain of data. Unwittingly we've been monitoring the whole piracy ecosystem, looking for content for our customers and we've been classifying it." He went on. "Then we actually analysed the data. What we've realised is how some of our customers are starting to use the data; the value that you can get from the understanding the actual audience almost outweighs the problem of piracy."

> **What we've realised is how some of our customers are starting to use the data; the value that you can get from the understanding the actual audience almost outweighs the problem of piracy.**

He explained in more detail. "We tracked 215 billion visits to the piracy ecosystem last year. Now each one of those visits isn't a download, it could be someone downloading the entire collection of Dr. Who or watching 12 movies or downloading them. When you look on the consumption side, it's not unusual for us for a big title to see 50 million to 100 million downloads in a month when a film comes out or a big TV show, not unusual for us to track 40 to 60 million downloads once the episodes are being released."

In a curious case of gamekeeper turned poacher, Andy added, "For 20 years people have talked about that audience as pirates. But what we realised through the data, what the data tells us is that they're *just audiences*. The people who are making the content available on websites are pirating it, they're usually doing it for commercial gain. The people who are accessing it are people that are doing it for several reasons.

What reasons? "Sometimes people watch a live sport event because it's a team they follow; they may already be paying for the services, but it's not available because of the 3pm football embargo. So, they'll go onto a website and they'll watch it in an unlicensed manner. Or a film has been released at cinema, not in the location where somebody is, it's then going onto a digital platform where it's not accessible in the country. So, they'll turn to piracy." They are just audiences with tools at their disposal.

Staggeringly, Andy then said that "one of our European broadcast customers is looking at what's popular in piracy in their territory. They're seeing what's not currently available legally and they're going and buying that content and they're bringing it back and they're scheduling it - based on piracy demand in their country. One of our bigger customers told us that they view this data set as the largest video-on-demand platform in the world." Which of course it is – it is vast, pure, non-partisan, unaffected by price points or licensing restrictions. It is gold dust.

It surely won't be long before studio execs are monitoring this data to assess whether to greenlight future content for production, if it isn't even happening already. Piracy is a scourge; it is undeniably bad for all creative industries and the criminal activities it funds. Despite countless attempts to contain, prevent and eradicate it, piracy is not going away. How incredible that the activities of pirates and their end-users is now influencing behaviour all the way back at source – the studios themselves.

They say data is the new oil; it looks like it might be in this case. What an unlikely, refreshing turn of events. We look forward to seeing how the synergy between pirates and content producers develops; let's hope their fortunes reverse soon.