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# **THE EPL DRAMA – PAVING THE WAY FOR MORE ILLEGAL STREAMING? DIGITAL PIRACY OF LIVE SPORTS BROADCASTS IN SINGAPORE**

## **Abstract**

Along with the rise of digital media technologies, digitisation disrupted and reconfigured the established practices of previously discrete media markets. The erosion of conventional media divisions has resulted in wide-ranging ramifications for sports broadcasts as it shifts from the historically dominant platform of broadcast television to the digital environment of the internet in the new mediascape. This paper considers how these emergent practices from the advent of media technology have represented significant challenges to the mediascape of sports broadcasts in Singapore. Given the popularity of mediated Western sports in Singapore, it comes as no surprise that the challenge of sports broadcasts piracy is acute in the country. Singapore has an exceedingly high degree of online infringement compared to other countries in the region. Data discloses that Singapore's per capita infringement ranks first in Asia and fifth highest globally. This paper seeks to review the phenomenon in Singapore, examining the drivers that created the unique market dynamics which shaped the piracy of sports broadcasts in the country. The paper goes on to discuss provisions in Singapore in terms of copyright law and enforcement that are in place for the deterrence of sports broadcasts piracy. It considers the adequacy of these current approaches and concludes with an observation of how Singapore will seek to adjust to the continual digital advancement in its battle against digital sports piracy. The outcome of this assessment helps provide an additional account for its comparison with existing discourse on the challenges of digitisation on sports broadcasts development in advanced capitalist Asian countries.

**Keywords: Singapore, English Premier League, Piracy, Sports Broadcasts**

## **INTRODUCTION**

In the analogue era, before the digital convergence of media, the media industry comprised a relatively discrete set of markets - television, radio and print - separated in terms of the infrastructure, technologies, working mechanisms, governance, production and consumption. With the rise of digital media technologies, predominantly the internet, established social, economic, political and cultural practices of these previously discrete markets are disrupted and reconfigured. The erosion of conventional media divisions has resulted in wide-ranging ramifications

for sports broadcasts as it shifts from the historically dominant platform of broadcast television to the digital environment of the internet in the new mediascape.

This paper considers how these emergent practices from the advancement of media technology have represented significant challenges to the established practices, focusing on the mediascape of sports broadcasts in Singapore. Given that Asia has been acknowledged as *the* primary growth area for global media sport (Rowe, 2011), Singapore has been identified as one of the prime targets for the expansionary strategies of some of the world's leading professional sports leagues and media conglomerates. Considering the increasing presence of transnational broadcasters such as ESPN Star Sports, Discovery, HBO, MTV, Sony Pictures Entertainment, NBC Universal, CNBC and Lucasfilm, Singapore has established herself as Asia's leading media marketplace and financial hub. Its significance as a regional headquarters for a host of global broadcasters serves as an exemplar of a cosmopolitan, urbanised Asian city-state. The outcome of this assessment helps provide an additional account for its comparison with existing discourse on the challenges of digitisation on sports broadcasts development in advanced capitalist Asian countries.

This paper first starts with a brief summary of the global problem of digital piracy of sports broadcasts. It then reviews the situation in Singapore, examining the drivers that created the unique market dynamics which shaped digital sports piracy in the country. The paper goes on to discuss provisions in Singapore in terms of copyright law and enforcement that are in place for the deterrence of sports broadcasts piracy. It considers the adequacy of these current approaches and concludes with a projection of how Singapore will seek to adjust to the continual digital advancement in its battle against digital sports piracy.

## **MODES OF DIGITAL SPORTS PIRACY**

Along with globalization, digitization and technological convergence, the transmission of popular sports content shifts from the historically dominant platform of televised broadcast to the digital environment of the internet. This significantly widens the distribution channels of sports content, which also increased the 'efficiency' of the distribution of pirated sports broadcasts. There are four main technical ways where pirated sports broadcasts are commonly consumed digitally (NetResult, 2011):

- Live streaming over the internet where live sports broadcasts are re-broadcast via peer to peer (P2P) televisions services or streamed directly from a web server via User-Generated-Content (UGC) live sites;

- Recorded versions of sports telecasts uploaded to file sharing networks such as *bittorrent*;
- Highlights created and placed on UGC sites such as YouTube and social networking sites; and
- Pirated broadcasts are also occurring in the forms of illegal set-top boxes and 'signal boxes', which offer pirated signals through unscrambling encrypted signals of pay-TV content.

In terms of sports piracy, the main area of concern remains on the full re-transmission of live sports broadcasts, rather than highlights, delayed transmissions and archived content. This paper focuses primarily on the live streaming of sports content where it has proven to be the most pervasive and problematic to combat (NetResult, 2008, 2011; Song, 2010). The unique characteristic of sports broadcasts means that methods which allow live access to an event are by far the most popular amongst viewers, who simply want the ability to watch the event as it happens. The immediacy of access offered by live internet-based streaming to live sports events is one of the key factors behind its predominant use for pirated sports broadcasts, where viewers are able to consume the event in the same way as scheduled televised broadcast.

P2P and UGC live streaming are the two dominant technologies driving online live sports piracy in recent years. With the installation of a television tuner card (which is commonly available) or with the connection of a satellite box to any PC, virtually any live broadcast stream can be captured and streamed live. In P2P streaming, it involves a retransmitted broadcast being streamed through the internet in small parts or chunks among participating network viewers. The network of viewers acts both as viewers and distributors of the content. A plethora of P2P streaming services can be easily located online; all the viewer needs to obtain access is to install a client software or plug-in to the web browser to get connected to the stream. In recent years, with more accessible bandwidth, unauthorised sport streaming via UGC live sites has started gaining popularity where individual users are free to decide on the content with the creation of their own channels, not unlike YouTube. The UGC live sites featuring pirated sports content appeared initially from 2007 onwards, albeit with limited appeal with the quality of offerings (NetResult, 2011). With advancement in technology, the speed of delivery and quality of streaming became better, aided by improvements in the recording equipment used by the 'providers'. Users of the UGC live sites are able to stream a wide range of live sports including the English Premier League (EPL) football matches, with quality and content delivery speed comparable to any other forms of online distribution, including officially licensed broadcasts. The simplicity of creating channels on UGC live sites for the streaming of content and the ease of accessing these channels have further fuelled

the substantial increase of UGC live infringements within the last few years. However, with substantial revenues to be had from on-site advertising, some of the UGC live sites are unwilling to adopt any anti-piracy measures against the embedding of unauthorised sports content within their sites. In both methods, technologies have enabled real-time retransmissions of live telecast signals on a worldwide basis with a straight forward access to the retransmitted broadcast streams, at no cost. As a result, the numbers of P2P and UGC live streaming sites providing sports content have thrived especially within the last few years.

## **STATE OF AFFAIRS IN SINGAPORE**

Football has always been the nation's favourite sports television programme (Wong, 2014). Along with the growing presence of international sports broadcasting encouraged by Singapore's open policy to international media at the turn of the millennia, it witnessed the rising popularity of Western professional sports. The new culture of consumerism which was rapidly developing across the Asia-Pacific region created perfect conditions for the promotion of Western professional football, which started actively pursuing broadcast rights and image-based marketing beyond its home base in the UK around the same time (Gilmour and Rowe, 2012). Unlike other Western cultural programmes (e.g., soap operas and films), sports content traverses cultural and linguistic barriers, which enables a relatively easy penetration of the vast Asia-Pacific market. Interests for Western football were further promoted by the significant increase of international sports transmissions brought in by local pay-TV providers. European football competitions, particularly the EPL, slowly became staple products of the commercialised leisure economy in Singapore.

Given the popularity of Western professional sports, it comes as no surprise that the challenge of sports content piracy is more acute in Asia than elsewhere. Digital piracy has reached an alarming level in the region with no less than 10 Asian nations that are among the top 50 countries for online infringement of content (MPA, 2012). And within Asia, studies (see MPA, 2012; Sycamore Research and Marketing [SRM], 2014) reveal that Singapore has an exceedingly high degree of online infringement compared to other countries in the region. Data from these studies disclosed that Singapore's per capita infringement ranks first in Asia and fifth highest globally (MPA, 2012; Shanmugam, 2012). Close to 60 per cent of respondents indicated that they have participated in online digital piracy. There are also indicators suggesting an increased acceptance of online piracy as a way of accessing content among consumers in Singapore (SRM, 2014). In fact, an earlier study revealed that 57 per cent of football fans in Singapore stream/download sports TV content on a daily basis (Leiva, 2013). This situation is further exacerbated by the proliferation of the

use of illegal set-top boxes and signal devices, used predominantly for access to pirated sports content, especially EPL matches. These devices were sold openly in shopping malls in Singapore, with some vendors who went to the extent of touting these devices through flyers in the mailboxes. The magnitude of the problem alarmed the organising body of the EPL which raised the matter to the Media Development Authority (MDA), the media regulator in Singapore, for their action in dealing with the illegal set-top boxes and signal devices (De Cotta, 2013).

Internationally, Singapore has the image of having one of the most disciplined and law abiding citizenry; its reputation as a country that respects Intellectual Property Rights is envied by many (Anjum, 2012). However, realities in the country paint an entirely different picture, so far as content piracy goes. The next section seeks to explore the factors that drive the demand and supply of digital sports piracy. The phenomenon of sports content piracy is often unique across different economies; consideration is thus given to the market conditions, technological, institutional and political environment in Singapore which facilitates the reproduction and distribution of pirated sports content.

## **DRIVERS OF DIGITAL SPORTS PIRACY IN SINGAPORE**

### ***Demand Drivers***

Demands for digital content (pirated or legal) are generally driven by the three conditions of, firstly, desirability of product content; secondly, the consumer's budget constraint (such as product price and individual financial circumstances) and thirdly, the acquisition costs (such as moral constraints) of the product (OECD, 2012). Desirability of product content is often the primary motive of the acquisition of pirated digital sports content. High interest in content is one of the key features that increase the probability of an infringement (OECD, 2012). In the case of live sport content, sport has a unique appeal in its universality which transcends language barrier. Regardless of the language in which the sport commentary is provided, it can still be enjoyed by viewers. While viewers may prefer commentary in their own language, pirated sport content with foreign-language commentary remains acceptable to viewers as presented in some unauthorised live streaming of sports broadcasts. This is especially the case for content (i.e. live sport matches) that is highly sought-after but difficult to obtain. As media scholars (Bryce and Rutter, 2005) suggest, quick access to a given digital content is usually a major motivation for viewers accessing a pirated copy. The immediacy of access to sports broadcasts often overrides the need for technical quality; viewers simply want the ability to watch the event as it happens. The principle aim of viewers accessing pirated

transmissions is to consume the event in the same way as if the scheduled television broadcast was accessible to them. With the advent in technology, the technical quality of pirated sport broadcasts is improving and the difference between pirated and legal broadcasts is narrowing. Pirated sport broadcast can offer virtually the same quality of transmission as legal broadcasts. This implies that viewers are likely to be indifferent between legal and pirated broadcasts.

Not unexpectedly, demands for pirated digital content are significantly influenced by viewer's budget constraint, which is determined by the product price and individual financial circumstances. The zero or low price of pirated sport content, relative to the price of the legitimate counterparts, remains a key driver in the acquisition of pirated sport content (Bryce and Rutter, 2005; OECD, 2012). As with general economic exchanges, there exists a price equilibrium at which viewers might be prepared to pay what they see as a fair price for a product (i.e. the sports content). As one of the world's costliest places to watch live broadcast of the EPL (Wong, 2014), the affordability of accessing legitimate EPL broadcast remains all the more pertinent. Since 2011, the MDA has implemented the cross-carriage rule to prevent viewers from having to switch or subscribe to any particular pay-TV operator to access its exclusive content (e.g., exclusive broadcast of EPL matches). The cross-carriage rule was implemented with the intention to cease excessive competition between the two local pay-TV operators, Starhub and SingTel, from hogging and over-bidding exclusive content to boost their subscriber numbers. The rule requires any pay-TV provider which secures exclusive content to offer the same content to its rival's customers at the same price and terms as it charges its own subscribers (Wong, 2014). Yet governmental intervention consequently resulted in a 72 per cent rise (from S\$34.90 to S\$59.90 per month) in subscription fee for just the EPL channels as SingTel ceased its subsidy<sup>1</sup> for EPL content. Nonetheless, consumers will eventually face the prospect of higher subscription fee due to the global rising value in football broadcast rights. Given the dire straits of high subscription cost, football fans in Singapore started turning to (pirated and legal) online streaming. As one of the world's technologically advanced nations, tech savvy fans in Singapore are able to resort to tools, such as the VPN (virtual private network) and proxy servers which enable them to circumvent geo-blocking measures and access live EPL streams from overseas.

It could be argued that the MDA's intervention is introduced to address the issues of consumer benefit. Yet, far from making prices more competitive and accessible to viewers, it has led to an almost immediate price hike to the subscription of EPL

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<sup>1</sup> As a newcomer to the pay-TV industry, SingTel was offering EPL on an exclusive premium content basis at a heavily subsidised rate in order to grow its subscriber base. Under the MDA cross-carriage ruling, it would have to do so for Starhub subscribers as well.

channels. Studies (Bryce and Rutter, 2005; Cheng et al., 1997) suggest that higher prices for access to legitimate content are likely to increase viewers' willingness to turn to pirated copies. This finding is particularly applicable to consumers in Singapore as they are driven to the 'free' alternative to legitimate product, which have been priced out of their reach. Although delivery channels for legitimate digital products have evolved significantly in recent years, which has reduced the potential incentives to engage in illegal market, affordable and comprehensive official pay-per-view internet sports services are still few and far between in Singapore. The EPL have provided limited or non-existent streaming services in overseas territories, limited in part by regulatory barriers imposed by the local government. With limited options for reliable, affordable and widely accessible legitimate services, it has further encouraged EPL fans in Singapore to seek out pirated streams online in order to follow their teams live.

Various studies and research (Bodey, 2013; MPA, 2012; SRM, 2014) confirmed the stereotype that digital piracy Singapore is rife in among adults aged (over 18 and) under 30. This demographic trend points to the generation of 'digital natives' who grew up in a digital environment where most do not perceive digital piracy as morally unacceptable, especially in instances when no monetary payment is involved. Reported by a number of studies (Birmingham and David, 2011; Bryce and Rutter, 2005), the consumption of pirated digital content are most likely to be perceived as 'normal' among this group of users. With no moral constraints, digital piracy is not perceived as 'theft' where the pirated digital contents have been acquired free of charge and no monetary profit is perceived to be generated by the providers. Nothing material goes missing when one accesses a live stream (Hutchins and Rowe, 2013). Besides, individuals among this consumer group, especially students and young people who are typically heavy media consumers, are most likely to face budgetary constraint. Digital piracy becomes for them a possible way to access what they want for 'free'. Having relatively low incomes, the lack of access to credit cards can be a barrier to many young consumers accessing legal downloading services.

### ***Supply Drivers***

An individual's attitude towards piracy can often influence the extent to which the individual supplies and/or shares pirated digital content. As discussed earlier, there appears to an increased acceptance of digital piracy as the mainstream practice for the access of sports content in Singapore. This permissive attitude seems to suggest the use and supply of digital piracy might not be an illicit or blameworthy activity, and is perceived as a socially acceptable norm in Singapore. This is suggestive of the



influence of social collectivity where several scholars (Bagchi *et al.*, 2006; Depken and Simmons, 2004; Ki *et al.*, 2006; Kyper *et al.*, 2004; Ronkainen and Guerrero-Cusumano, 2001) had identified the social environment to be strongly and positively correlated with digital piracy rates. This is reflected in a recent survey where active pirates in Singapore held the belief that the sheer number of infringers lowers the risk of liability (SRM, 2014). The perceived lack of personal impact could influence the extent to which one supplies pirated digital content. Besides, with limited success in the fight against digital piracy in Singapore (CAABAS, 2014), it enhanced the belief among consumers that the likelihood of getting caught is very small.

Given its reputation as one of the most regulated countries in the world, Singapore's present digital piracy number raises questions on the effectuality of its legislative framework to stem the growth of this phenomenon. It invokes the familiar suggestion that the MDA's (2014) "light touch" legislation is perhaps in the interests of stimulating demand for the product<sup>2</sup>. Sensitizing potential consumers to an 'unknown quantity' through unauthorized distribution may ultimately be beneficial as current viewers can subsequently be persuaded to purchase this service and related media products legally (Hutchins and Rowe, 2009). Often witnessed in the case of legalistic suppression of literary texts or films, the decision to regulate often increases the appeal of the very object or practice that is intended to be controlled (Jansen and Martin, 2004). Rather than acceptance and compliance from fans, the unintended outcome in media sport culture will likely to be resentment and resistance (Crawford, 2004; Hutchins and Rowe, 2009).

Exacerbating the legislative deficiency is the abundance and ease of access to sites for pirated digital sports content. With developments in streaming technology, the improved quality and streaming speed have substantially increased the appeal of digital piracy of live sports events. The technical ease and feasibility of reproduction permits the costless and instantaneous replication of digital sports content. With an advanced media technology market in Singapore, the penetration of high-speed broadband networks<sup>3</sup> and early adoption of smart phones, tablets and internet-enabled television sets have resulted in a significant spike in digital piracy of sports content in recent years. Ironically, as part of their strategies for fighting online piracy, new business models have been adopted by some sports rights holders in other regions. Official online simulcasts streams of matches are offered within reasonable prices as a means to provide legal alternatives to counter unauthorised content online. However, these official streams are often easily pirated and

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<sup>2</sup> Both local pay-TV providers (Starhub and SingTel) are majority owned by the Temasek Holdings – an investing arm of the Singapore government.

<sup>3</sup> All of Singapore's households have some form of high speed broadband internet access, which is one of the highest in Asia (Paul Budde, 2013).

redistributed; it is often the case that these official streams become the source of pirated streams. A combination of these multiple factors has broadened access to pirated sports content, significantly increasing the threat and impact that digital piracy has on the sports rights holders in Singapore.

## **PRESENT MEASURES AND CHALLENGES IN SINGAPORE**

At present, there are a variety of strategies available to sports rights holders in their attempts to handle digital piracy of their content in Singapore. One of which is the issue of takedown notice to the Internet Service Providers (ISP) to remove infringing streams, embedded video or links to unauthorised content, as provided under the Copyright Act (Cap. 63) (Ministry of Law, 2014). However, this mechanism has not been effective for several reasons. First of all, the onus for the takedown notice lies entirely with the rights holder. It is resource-intensive to monitor and locate streams, collect evidence and send notification requesting the removal of offending content. This process requires a significant amount of work to be compressed into a small window of opportunity before the live broadcast of the sport event is over. Because of the short 'shelf-life' of live sports broadcasts, action against offending sites needs to be taken as early as possible, ideally before the live broadcast starts. Any delay or in-compliance on the part of the providers implies that viewers get to consume the entire event without interruption. P2P and UGC sites that offer unauthorised live sports broadcasts can often spring up at very short notice, which makes it extremely challenging for rights holders to respond quickly. Generally, any action to take down the sites before the live broadcast commences is difficult, if not impossible (OECD, 2012).

Sound legal frameworks can indeed affect the levels of digital piracy, but only to the extent that laws are enforced in practice and taken advantage of by rights holders. If the resources devoted to enforcement are inadequate or not enforced by public authorities, or rights holders choose not to take action against copyright infringers, then the value of the laws and regulations to the rights holders is low. Even the strictest law could therefore potentially have no impact on the scale of digital piracy (OECD, 2009). The continual growth of digital piracy in Singapore is in part driven by the shortfall in its enforcement mechanisms. In an annual report produced by the Office of the United States Trade Representative (USTR) (see Special 301 Report<sup>4</sup> on

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<sup>4</sup> The Special 301 Report is prepared annually by the USTR under Section 301 provision of the Trade Act of 1974. The reports identify trade barriers to US companies and products due to the intellectual property laws, such as copyright, patents and trademarks, in other countries. Each year, the USTR will identify countries which do not provide "adequate and effective" protection of intellectual property rights or "fair and equitable market access to United States persons that rely upon intellectual property rights" (USTR, 2014: 24).

Copyright Protection and Enforcement, 2012), the International Intellectual Property Alliance (IIPA) pointed out that in Singapore, “there is no evidence that any notices have been passed on to the infringing subscribers, nor that any ISPs even have a policy to do so” (USTR, 2012: 316). The Singapore government’s enforcements remain inadequate in terms of its refusal (or rather inability) to bring about public prosecutions of online pirates. The response of the Intellectual Property Rights Branch (IPRB), the local enforcement agency, to the depredation was described as passive, with the mere issuance of warning letters to infringements and no legal action in majority of the cases (OECD, 2009). The legislative deficiency is further hampered by the failure to bring the ISP to co-operate with rights holders to combat digital piracy. Not a statutory requirement, ISP in Singapore have been either slow in responding to takedown notifications by rights holders or requests were routinely ignored (USTR, 2012). Then again, the persistent use of takedown notice is likely to push streamers to ‘relocate’ to an alternative platform of content delivery. It is ineffective in eradicating illegal streaming. Furthermore, compliance is often stalled by the ascertainment of liability for infringement. For instance, the actual content streamed on UGC Live sites may be located and owned by another ISP in a different country to the host website in Singapore. Such ambiguities surrounding contributory infringements hamper the ascertainment of legal liability and hence the pursuit of prosecution is often not taken up by rights holders (Ministry of Law, 2014).

Although empowered to direct the blocking of websites under Singapore’s Broadcasting Act, the MDA has committed itself to “a balanced and light-touch approach” over the governance of the internet “while giving maximum flexibility to industry players to operate” (MDA, 2014). Its internet regulation emphasizes self-regulation and encourages individual consumers to be socially responsible for the use of content. Site blocking has been deployed mostly on pornographic content on the internet. The use of site blocking to address digital piracy is deemed to be “too intrusive on internet users” (Ministry of Law, 2014). Popular P2P streaming sites such as The Pirate Bay (blocked in many countries including the UK) are still accessible in Singapore<sup>5</sup>. In contrast, neighbouring states like India, South Korean and Malaysia have proactively engaged with rights holders in the implementation of site blocking and have received some respite from digital piracy. In Malaysia, the number of pay-TV subscribers increased following the implementation of site blocking regulation (MPA, 2012; NetResult, 2011).

Having one of the highest incidences of digital piracy in the Asia-Pacific region, the government admittedly acknowledged that “our policy and regulatory frameworks –

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<sup>5</sup> The Singapore Parliament has since passed an anti-piracy amendment to its Copyright Act in July 2014, which aims to block “flagrantly infringing online location” such as The Pirate Bay. However, the practical aspects of the implementation of the new law remain vague (Zhang, 2014).

designed for traditional media platforms and industry structures – are no longer able to cope with the emerging characteristics of the converged media environment” (MDA, 2012: 2). In the wake of the urge from the USTR and the IIPA to address the shortfalls in its measures to combat digital piracy, the Singapore government carried out a Media Convergence Review (MCR) in 2012 where the outcome is still unraveling. The review concluded that the key challenges lie with: (a) lack of attractive legitimate digital content sources; (b) consumer’s understanding of and respect for copyright; and (c) limitation in existing remedies. A three-pronged approach comprising a call for collective industry rethink on the provision of legitimate digital content sources, public education and enhancement of its regulatory measures have been proposed to address challenges of digital piracy (MDA, 2012).

## **THE PROGNOSIS**

### ***A Lack of Resources***

The MCR pointed out that given the huge interests in live sports broadcasts, especially the EPL, with affordable and comprehensive official pay-per-view internet sports services few and far between, consumers’ interests have not been adequately met. Rights holders and content owners were urged to have a collective industry rethink about their rights licensing models and widen their offerings. With a business model based on the ownership and regulation of retransmission and distribution rights that was developed in the pre-internet era, top-flight leagues and clubs have become heavily dependent on the restricted access or “broadcast scarcity” (Hutchins and Rowe, 2009) of their content. The emergent online practices of accessing pirated EPL matches by a generation of ‘digital natives’ consumers completely ‘at ease’ (technology and moral wise) with the use of pirated content threatens to disrupt the value and control of football broadcasts. The recent period has been particularly busy and challenging for content owners and sports rights holders attempting to protect the (pre-internet) established practice of broadcast revenue streams<sup>6</sup>. Sports rights owners have been asking governments around the world to take action against piracy, in order to protect existing pricing models and content distribution strategies<sup>7</sup>, rather than update their business models and strategies to address the

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<sup>6</sup> For instance, the Sports Rights Owners Coalition (SROC) has been set up by sports organisations in their combat against digital sport piracy. Alongside SROC is the Copyright Integrity International (CII), a private consultancy hired by several national and international cricket governing bodies to deal with illegal streams (Hutchins and Rowe, 2012).

<sup>7</sup> For example, the EPL, despite reporting combined club annual revenue of over £2 billion annually, has called for UK Government’s assistance in convincing internet users that piracy is not a ‘victimless crime’ (McCullagh, 2009).

changing demands of consumers in the digital age. A similar debate has been taking place in Singapore. With no conclusive evidence that digital piracy has hampered demand for legitimate content (Hutchins, 2009; Hutchins & Rowe, 2009; MDA, 2012; Rowe & Gilmour, 2008), the MCR contended that sports rights holders could only have “stronger grounds to request the Government to step up its regulatory/enforcement measures to address perceived digital piracy challenges if they are able to prove that they have already made their content easily accessible in the local market and at reasonable prices” (MDA, 2012: 25). Scholars (Birmingham and David, 2011; Hutchins and Rowe, 2013) have supported the argument that the longer sports rights holders persevere with a protectionist mindset by failing to invest in and offer legal, affordable access to their services, the more likely it is that channels for unauthorized streams online will continue to flourish and offer ‘better’ services. As seen in case of the US Major League Baseball, their offering of internet broadcast packages provided fans access to official streams in return for a small fee. The increased quality and reliability of official streams resulted in the decline of illegal baseball streams in *Justin.tv*, a prominent UGC site (Birmingham and David, 2011).

Legal measures aside, an alternative approach, perhaps, to resolve digital sports piracy would be to include the event in its anti-siphoning list. Introduced in 2003 by the MDA, the anti-siphoning scheme ensures that rights to (particularly sports) programmes that are of national interest and importance will not be siphoned off to pay-TV operators, and are available for free-to-air broadcaster to acquire and broadcast for the entire nation's access. Some of the key sports events protected under the list include the summer Olympic Games and finals of the FIFA World Cup. Whether or not the EPL falls within the strict criterion<sup>8</sup> as an “event of national significance” (MDA, 2010) for inclusion into the list is the topic for discussion elsewhere (see Wong, 2014). The MDA would need to tread an extremely creative path through the provision of the anti-siphoning regime in order to arrive at a revised list that includes the EPL even with its significant viewership. The effectiveness of the cross-carriage regime, which requires pay-TV operators to share exclusive content, will also have to be reviewed. By considering the possibility of wholesale sublicensing (similar to the “must-offer” antitrust provision in the UK), it will allow other smaller providers to enter the market which can bring down the costs of access to the EPL (Tan and Ang, 2014). As things currently stand, many consumers and fans are being priced out of watching the sport, and the rising availability of ‘free’ streams online is merely going to increase the lure of not paying.

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<sup>8</sup> One of the criteria asks “whether the programme involves major international sporting events, international sporting events in which a Singapore team or personality is participating, or significant local sporting events” (paragraph 2.6.1.3, MDA, 2010).

The fact that pirated content is available for free remains the primary driver for consumers in Singapore to engage in piracy (SRM, 2014). Free content is hard to resist when the alternative is to pay. By allowing everyone to watch at a price they can afford (or free!), it can prevent illegal streams from growing further than they already have.

### ***A Lack of Remorse***

Since the fight against piracy is a multi-faceted problem which needs more than the threat of legal action to combat, public education has been identified as an action area to shift public attitude in the review. A recent survey (SRM, 2014) carried out on the prevalence of digital piracy in Singapore revealed that most consumers understand that copying without permission is generally unlawful, while engaging in the act. The fact that consumers accessing illegal content in Singapore are very open about their involvement in piracy “to the extent it is almost a badge worn with pride” (SRM, 2014: 37) justifies the need for a concerted effort in public education campaigns to address digital piracy. The acceptance of digital piracy as a ‘social norm’ in Singapore is a result of multiple contributing factors. Other than the easy accessibility of pirated content, the lack of perception over the negative impacts of piracy, the lack of limits and disincentives to compel consumers to stop illegal access are reportedly the key drivers of increasing engagement in digital piracy. To this end, there has since been a renewed effort in its public outreach programme through the Honour Intellectual Property (HIP) Alliance initiative. Made up of government agencies, private and industry associations, the HIP Alliance sets out to raise awareness and promote respect for IP among the general public, particularly young people, through educational campaigns and activities in its combat against piracy (Intellectual Property Office of Singapore, 2014).

Public educational campaign to address digital piracy challenges is predicated on the belief that increased understanding and awareness of digital piracy will encourage consumers to stay away from unauthorized content acquisition, casual infringement and piracy. Yet there have been very few studies to measure the effectiveness of messages to deter consumer access to digital piracy. Critics, such as the SROC, which “does not believe that there is widespread misunderstanding of what is, and what is not permitted” (SROC, 2011: 21) have considered this approach ineffectual in curbing the very real and adverse economic impact of piracy. Studies have found that young generations of infringers do not respond well to ‘preaching’ approach of campaigns (Business Action to Stop Counterfeiting and Piracy, 2009; SRM, 2014). Resistance to traditional authority figures (e.g., government and enforcement agencies), rather than acquiescence and compliance, are likely to be their responds.

Increased educational efforts on the negative impacts of digital sports piracy may have an effect on some but would be limited. However, any perceived failure of an educational approach could lend support for more draconian and punitive measures to be introduced.

### ***A Lack of Recourse***

In line with its “light touch” commitment, the Singapore government has generally kept its promise by applying the internet regulatory principles judiciously. Practically unenforceable, the government would not attempt the futile exercise of censoring all objectionable material, but only a symbolic list of 100 sites with ‘prohibited’ materials<sup>9</sup> particularly of pornographic and racial or religious extremism nature. Its focus has always been to protect and preserve its societal value without stymieing productive activity and innovation (George, 2012). With the growing pressure and challenge of a converged digital environment, stronger protection for copyrighted digital materials and proactive enforcements were recommended in the MCR. As an outcome of the review, a public consultation on proposed amendments to its copyright act was called for in April 2014 (Ministry of Law, 2014). Ways of improving the speed at which the legal system responds to infringements were considered, given the highly perishable nature of sports broadcasts. It sought to streamline the process for rights holders to obtain enforcement action against pirate websites that “clearly and flagrantly infringe” copyright (Ministry of Law, 2014). Under the proposed legislative changes, rights holders will be allowed to apply directly to the Courts for injunctions to block pirate sites without having to first establish ISP’s liability for copyright infringement. This judicial process is thought to improve efficiency in the removal of pirated content and avoids implicating the IPS unnecessarily. Under the current legislative measure, the need to impute the ISP’s liability has created significant deterrence to the application of injunctions. Rights holders can currently issue a “take-down” notice to the ISP to request that they disable access to or remove copyright-infringing material from their network. If the ISP chose not to comply, rights holders will need to sue them or seek an injunction for copyright infringement. But such a mechanism has proven not to be effective (see earlier discussion). The introduction of a no-liability approach aims to encourage greater cooperation between ISP and sports rights holders.

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<sup>9</sup> It draws reference to “material that is objectionable on the grounds of public interest, public morality, public order, public security, national harmony, or is otherwise prohibited by applicable Singapore laws.” (MDA, 2014).

## CONCLUSION

Singapore is not unique in experiencing digital sports piracy, caused predominantly by the value and appeal attached to the live televised sports events. In the case of Singapore, legitimate broadcasts are not always accessible to consumers and fans as a result of complex commercial and licensing arrangements. Inevitably, there are a significant number of potential consumers whose needs have not been met. This bears implication on those otherwise potential legitimate consumers who would look for other ways to view those events. The same phenomenon may well apply to other countries that are experiencing similar ill effects from escalating content costs, where legitimate access to live sports has been restricted. Consumers may be unable to access legitimate sports broadcasts for one reason or another because of geography, regulatory framework, contractual arrangements and commercial imperatives. With the arbitrarily curtailed access, many of these will turn to 'other' services to gain access to broadcasts of their preferred sporting events. This vicious cycle thus create more consumers to sustain the illicit streaming sites, illustrating a phenomenon that is fast becoming familiar in the digital age.

The case of Singapore's digital sports piracy yield insights into the fraught condition and patchy legal systems in the digital age, where the chances of totally eliminating digital sports piracy are slim. Although governmental regulations are often perceived as one of the best ways of fighting digital sports piracy, digital piracy is virtually a borderless activity where providers are likely to operate from different legal regimes. The effectiveness of normal legal jurisdiction is somewhat limited. The choice between pirated and legitimate access is fundamentally a combination of ease-of-use, pricing and availability on a given market. As suggested in the MCR, there should be a move among the industry to reconfigure the current business models to deal with the digitized media environment. Sports rights holders should perhaps take a longer term view and invest in their media product development to diversify their legitimate media offerings, at an affordable price. There is already compelling evidence that creating legitimate commercial alternatives is a good way to contain piracy (see Envisional's *An Estimate of Infringing Use of the Internet*, 2011). The availability of content, new and archived, on easily accessible platforms, in a timely manner and reasonable price, the key drivers in consumers' decisions to purchase legitimate content, appears to be *the* way forward in the battle against digital sports piracy.

There is a general consensus that piracy is now part of the digital ecosystem (Envisional, 2011; Fillous, 2012; Kirkton and David, 2013; Lobato et al., 2011) which no doubt is inflicting a great deal of harm on the sports broadcast industry and local governments. These are pertinent issues for both the sports industry looking to



expand their market, and developing economies looking to mature their media and pay-TV industry in the next phase of global competition. This paper has hopefully provided a further understanding of the debates confronting all parties in today's digital piracy battles. Rightly pointed out by scholars (Lobato et al., 2011), innovations in technology, business models and regulatory frameworks influence rapid developments across the legitimate and illegitimate sectors, which interact in diverse ways. The goal post to piracy enforcement is, therefore, constantly moving. Further work will be needed to continue with the update of development.

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