PROJECT ON COUNTERFEITING AND PIRACY PHASE II: PIRACY OF DIGITAL CONTENT

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Phase II covers digital piracy of all copyrighted materials.

- Pirate transactions that do not involve the use of physical media
e.g. via Internet, LAN networks etc.
- Numerous industries affected by digital piracy:
  music, movie, radio, television (including sports broadcasting),
  software (business and entertainment)
- Many technical ways of market formation; most of them rely on solutions developed for legal purposes:
  Peer-to-peer networks (P2P), One-click hosting services, “Warez” sites,
  streaming services, leech sites, etc.
Research Questions:
• How markets for pirated digital products operate?
• What are the drivers of digital piracy?
• What are the
  – industry initiatives, and
  – institutional regulations to counter digital piracy?
• Case study – Sports Rights Owners Sector

digital products - key properties
• costless reproduction
• hardware dependence
• digital delivery
• global market scope
**Markets for pirated digital products**

Special economic properties:

- Some pirated digital content is offered at zero price (*supply*)
  
  *Non-monetary supply drivers*

- Some customers pay for (pirated or legal) digital content even though they could acquire pirated alternatives for free (*demand*)
  
  *Important role of “transaction costs” for customers decisions*

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**market drivers**

Supply drivers

*examples:*
- Attitude towards piracy
- Reciprocity mechanism
- Legal and regulatory framework

Demand drivers

*examples:*
- Attitude towards piracy
- Low security awareness
- Product availability
Industry initiatives

- Cross industry
- Sector Initiatives

Action areas:
- Educational campaigns
  - awareness of potential security issues
  - unethical character of piracy
  - of those involved in copyright enforcement.
- Within-industry co-operation:
  - development of technologies
  - with governments and agencies.

Institutional regulations

International treaties
- TRIPS
- WIPO Copyright Treaty
- WIPO Performances and Phonograms Treaty

National Laws
- Civil Remedies
- Criminal Penalties

Liability for circumvention of technological protection measures
What is the Sports Rights Owners Sector?

Depending on individual contracts, the broadcast and associated rights could include:

- Live broadcasting of sporting events (TV and radio),
- Live or delayed streaming of events on the Internet,
- Delayed broadcasts/streaming of those sporting events,
- Packaging of highlights,
- Subsequent DVD releases as individual events or as part of sport compilations,
- Subsequent rebroadcasts as “classic” or “historic” events.

Where are rights owners most vulnerable?

Greatest value to rights owners is during the live transmission and delayed broadcasts

- Technology enables pirates to attack rights owners at point of greatest value – the live broadcast,
- Signals can be captured and streamed on the Internet in virtual real-time, principally through:
  - Unicast transmission (one-on-one) – generally paid sites
  - Peer-to-peer networks (“swarms”of users acting as downloaders and uploaders) – generally free sites
Unicast vs peer-to-peer streaming sites

Market characteristics of live sports broadcasts

- **Legitimate market** where are able to access and pay for legitimate services

- Potentially legitimate market that is unfulfilled (perhaps through contractual restrictions on coverage in certain countries/regions) which may turn to illegitimate sources

- **Illegitimate market** composed of those who for a variety of reasons choose illegitimate sources.
Problems reported by the sector in dealing with pirate sites:

- difficulty in locating sites sufficiently far in advance to take successful legal action;
- many sites are located off-shore from where the sports event is being broadcast, making legal redress more complex, difficult and expensive;
- sites often located off-shore, in jurisdictions with weak or poorly functioning legal systems or rules;
- ability of sites to set up mirror sites (in different legal jurisdiction) to thwart the effect of successful legal action,
- ability/willingness of temporarily or permanently closed sites to set up new sites (even in the same legal jurisdiction) which need fresh legal action to be taken.

Three specific industry examples
(from twelve that were provided):

- **Football**: most popular single sport in the world. Around 238,000 viewers were estimated to have watched one particular club game.
- **Cricket**: very popular in India/Pakistan. The highest number of viewers recorded for a single game was more than 700,000 on a single P2P stream.
- **American Basketball**: a domestic series very popular, in China. Largest audience ever recorded on P2P site was almost 1.2 million viewers.
THREE KEY ISSUES FOR POLICY MAKERS

Unlike other forms of counterfeiting and piracy there are large numbers of suppliers willing and able to provide content at little or no cost to consumers

– making market more difficult to understand, and
– needing new business models as well as regulations to deal with this.

Digital products can be highly perishable (e.g. live broadcasts), piracy is global and cuts across different legal jurisdictions

– legal means of dealing with infringements need to be rapid, targeted and flexible,
– without unreasonably affecting Internet as communication, commercial and educational tool
THREE KEY ISSUES FOR POLICY MAKERS

Consumer perceptions are particularly relevant as not-for-profit exchanges of content not always seen as unethical
– Clear, targeted public awareness campaigns need to be coupled with enforcement efforts,
– Recognition given to diffused nature of digital piracy and greater problems of international co-operation