
CONTENT PIRACY IN THE STREAMING WORLD: INADEQUACY OF LEGISLATIVE ACTION

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ABSTRACT

The Digital age has brought forth a technology-driven economy that has had a significant impact across all walks of life. From analogue, then digital to present-day streaming, it is the entertainment industry that has been at the forefront of such advancements, experimenting and shifting to newer formats. The past two years have been instrumental in this change as the pandemic-induced lockdown drew more audience to OTT content, accelerating the growth of these platforms. However, as subscription-based streaming becomes the norm, piracy of the content becomes an alarming issue since accessibility is restricted to only the subscribers in this model. The market for pirated content is growing like never before and reports estimate that the cost of global online streaming piracy will hit approximately USD 52 billion by 2022. This has a significant effect as it violates not only the copyright of the creators but also cripples the economic advancement in the country. Thus, arises the need to examine the existing regulatory measures and effectiveness of the legislative schemes. Countries like USA, UK, and Malaysia have enacted specific legislation to address digital piracy in streaming services and have adopted stringent penal measures. In India, the Copyright (Amendment) Act 2012 brought forth sections 65A and 65B to delineate an Anti-Circumvention Law for effective Technological Protection Measures (TPM) as well as protect the associated Rights Management Information (RMI). The Information Technology Act, 2000 also has certain provisions in this regard however these provisions fail to serve the eventualities of streaming-based piracy. Therefore, through this paper, we analyse the piracy environment in digital space, how it affects the OTT players, measures adopted by them to curb the menace and efficiency of India's legal framework in comparison with that of other countries.

KEYWORDS: Digital piracy, Over-the-top (OTT) platforms, Section 65A, Copyright (Amendment) Act 2012, Technological Protection Measures.

Introduction

The pandemic era witnessed a massive change in the social, economic, cultural and political conditions in our country. One can even say that our entire system underwent a drastic change and each one of us were introduced to different life situations starting from lockdown, quarantine, social distancing, self-isolation followed by non-functioning of educational institutions, Industries, service providers and almost all the sectors were put into a halt which in turn left many sections without any job. But the newest internet technologies came for the support here. Even though all these technologies existed before, our country was resistant to adopt them in its full potential. Nowadays, we started to look for alternatives and now we are moving quicker towards the digital world.

Online entertainment had gained a remarkable popularity among all the generations of people irrespective of age. One among the online streaming services are OTT platforms. OTT stands for “Over the Top” and refers to any streaming service that delivers content directly to the viewers over the internet. The service is delivered “over the top” of another platform, hence the moniker.¹ OTT bypasses cable, broadcast, satellite television and other platforms that generally act as a controller or distributor and enables disintermediation.²

Through over the top platforms the contents are produced over the internet according to the options and requests of the end consumer, without any involvement by the multiple system operators (MSO) in content control and distribution. These platforms thus supersede the traditional media where the contents were made available to the people by, television networks, movie theatres, film distributors, or Multiple System Operators (MSOs). Internet connected devices like smart TV, smartphone, personal computer, laptop, tablets etc. can be used to access these OTT applications and the viewers can access these from any place or in any time according to their convenience. Sometimes these applications have to be subscribed or rented by the viewers for accessing the contents. Some OTT video streaming services are Netflix, Amazon Prime Video, Disney+ Hotstar, Sony Liv, Zee5, Voot, MX Player, Jio Cinema, Audio streaming services like Wynk Music, Spotify, Jio Saavn etc.

¹Adjust.com. <<https://www.adjust.com/glossary/ott-over-the-top/>> (last visited 24 December 2021).

²Sundaravel, E. and Elangovan, N., Emergence and future of Over-the-top (OTT) video services in India: analytical research. International Journal of Business Management and Social Research, [online] 8(2), pp.489-499. 2020.<https://www.researchgate.net/publication/341558182_Emergence_and_future_of_Over-the-top_OTT_video_services_in_India_an_analytical_research#pfa>.

Over the past few years, India is witnessing a rapid growth in this industry of streaming services. The Covid outbreak in the past two years boosted the growth. According to a recent report by PwC (Price Waterhouse Coopers), India is considered as the world's fastest-growing market for OTT service providers. With an annual growth rate of 28.6 percent, it is expected to become the sixth-largest market by 2024, ahead of South Korea, Germany, and Australia.³ According to the report by RBSA⁴ Advisors, India's OTT market is expected to touch \$12.5 billion. The audio market is also expected to grow from \$0.6 billion in 2021 to \$1.1 billion in 2025 and further to \$2.5 billion by 2030.⁵ As per the Ormax OTT audience report 2021 published by the Media consulting firm Ormax discloses that the OTT universe of India is at 35.32 crore people.⁶

According to a report published by Omida in 2021; 'India: Online Video Trends and Omida Consumer Research Highlights', states that the OTT video subscriptions in the Indian SVOD (subscription video on demand) market has hiked from 32 million in 2019 to 62 million in 2020.⁷ India has surpassed the United States as the world's second-biggest video-viewing population with the current subscriber number reaching 500 million, while China remains the world's largest.

Initially all these streaming services were self-regulated, but the need for regulating these services became necessary as the popularity and the volume of population accessing these services multiplied. So, the Government of India in the year 2020 brought these OTT platforms under the administration of the Ministry of Information and Broadcasting.

Even though the increase in the number of subscribers and online access to these platforms accelerated the growth of this industry the same factors contributed towards many other threats which is now infecting them by and large. The digital piracy of the contents streamed by them

³Mid-day.com. 2021. The rise of OTT platforms in India during the pandemic. [online] <<https://www.mid-day.com/lifestyle/infotainment/article/the-rise-of-ott-platforms-in-india-during-the-pandemic-23180042>>, (last visited 25 December 2021).

⁴RBSA Advisors. 2022. Leading independent Transaction Advisory Firm | RBSA Advisors. [online], <<https://rbsa.in/>>, [Accessed 26 March 2022].

⁵News, B. and News, I., 2021. India's video OTT market to touch \$12.5 bn by 2030: Report - Times of India. [online] The Times of India. <<https://timesofindia.indiatimes.com/business/india-business/indias-video-ott-market-to-touch-12-5-bn-by-2030-report/articleshow/84517492.cms>>, (last visited 26 December 2021).

⁶Staff, e., 2022. India has 353 million OTT users, 96 million active paid subscriptions: Ormax report - Exchange4media. [online] Indian Advertising Media & Marketing News – exchange4media. <<https://www.exchange4media.com/digital-news/india-has-353-million-ott-users-96-million-active-paid-subscriptions-ormax-report-115325.html>> (last visited 24 February 2022).

⁷India and Industry, M., 2021. Media and Entertainment Industry in India, Indian Media Industry. [online] Ibef.org. <<https://www.ibef.org/industry/media-entertainment-india.aspx>> (last visited 26 December 2021).

is one such infection. Here, since the contents are not available for free, many people try to access the contents without any cost, and there comes the pirated content which is very easily available now all over the internet. Even those without a subscription or membership can easily access the original contents of these platforms which causes copyright infringement. This creates huge loss to the streaming services and decreases their quality and is hitting them hard in their growing phase. Such digital piracy and copyright infringement has to be regulated. These organisation's rights and interests need to be protected and their duties has to be well defined. In India we have Copyright Act with recent amendments but these are not yet completely analysing all the issues faced by these online streaming services.

What is digital piracy?

The lack of effectiveness and certain ambiguities in the Copyright Laws induced the growth of piracy in India. As the number of people using internet and online technologies increased, the volume of flow of pirated contents and other illegal access to those contents also started to shoot up to large figures.

The act of illegally reproducing or distributing copyrighted products like computer programmes, books, music, and films is referred to as piracy.⁸ The digitisation of information products and increased use of internet resulted in the illegal copying and distribution of contents without the lawful authorisation and consent of the copyright owner which thereby causes massive copyright infringement in our digital world. Music, software, movies, books etc. which can be called as digital products are illegally accessed by people effortlessly. Piracy can be of two types commercial piracy and end user piracy. As the name suggests commercial piracy is carried out by organisations with the sole aim to gain high profits by illegally distributing or reproducing copyrighted contents. While end user piracy is carried out by individuals or consumers themselves for personal purpose.⁹ For example, downloading newly released movies, songs, gaining access without subscriptions, etc.

Digital piracy means the illegal reproduction, consumption, distribution of copyrighted contents such as movies, music, video games, e-books, software, TV programs, periodicals etc. in electronic or digital formats with the help of digital technologies. This is also called internet

⁸Matthew N. O. Sadiku, M., J. Ashaolu, T., Ajayi-Majebi, A. and M. Musa, S.,2. Digital Piracy. IJSCIA. 797, 797 (2021).

⁹ Belleflamme, P. and Peitz, M., Digital Piracy, Encyclopedia of Law and Economics, 1, (2014).

piracy or online piracy. Digital piracy can happen in any media but video piracy, music piracy and software piracy are most common among them. One of the main reasons for digital piracy or end user piracy is the unwillingness of people to pay the price of the digital content.¹⁰

Some modes of online piracy

1) Peer to peer networks(P2P)

P2P file sharing helps the users to share or distribute information, data, files or any digital media from one computer to another. This is responsible for widespread piracy as it is one of the easiest and most used service. The Napster case¹¹ was one such example to prove the usage of P2P network aiding in digital piracy thereby violating the Copyright Law.¹²

2) Cyber lockers and cloud services

Cyber lockers are online services that act as a host which provides a data storage space and also helps in data sharing.¹³ Those who store their files here can access them globally. These are also known as cloud services. The pirates store the pirated content in the cloud, on services such as Dropbox, OneDrive, and Google Drive, Megaupload and Hotfile.

There are many common websites which can be easily accessed by people over internet. These sites frequently crack or illegally obtain the copy of new movies or other videos and allows the viewers to watch it for free. Thus, resulting in copyright infringement. Using these sites to watch unlicensed copy of contents is dangerous and is a direct cause for launching malwares or viruses in to our system.¹⁴

3) Online auction sites

When the companies which rent software provides the copy of such software for trial the pirates copy the software and distribute them.¹⁵

¹⁰ Matthew, *supra* note 8.

¹¹ A&M Records v. Napster, Inc. 239 F. 3d 1004 (9th Cir. 2001)

¹² Anand, A., 2022. Digital Piracy - An Overview | Analytics Steps. [online] Analyticssteps.com. (last visited 3 January 2022) <<https://www.analyticssteps.com/blogs/digital-piracy-overview>>

¹³ Techopedia.com. 2022. What is a Cyberlocker? - Definition from Techopedia. [online], <<https://www.techopedia.com/definition/27694/cyberlocker>>, (last visited 3 January 2022).

¹⁴ *Id.* at 12.

¹⁵ *Id.* at 12.

Digital piracy and OTT platforms

Digital piracy is one of the greatest concerns faced by these streaming platforms as it affects their turnover and creates huge losses and mass copyright infringement, which shoots over the past years. The contents streaming in these platforms are looted not only by making illegal copies but by many other means like sharing files over internet through social media, password and credential sharing purchasing illegal streaming boxes.¹⁶ According to the report by Digital TV Research, OTT players in India will lose USD 3.08 billion in income due to piracy by 2022, while the cost of global online streaming piracy will reach USD 52 billion.¹⁷ Also, it is estimated that these advertising and subscription led video streaming platforms are losing 30 percent of their annual revenue due to online leakage of their content.¹⁸

There are many strategies that aids piracy in these streaming services. Some of them are

1) Trial fraud

This is where people often exploit the trial package offers repeatedly using numerous accounts or email ids.¹⁹

2) Credential sharing

People share their credentials with friends and their family members and thus the content providers and creators are losing a fair share of their revenue through this type of mooching off and also some pirates steal these credentials from authorised users and sell them at cheaper rates in dark web. Thus, end up in illegal credential sharing.²⁰

3) Simulcasting

¹⁶The Hindu. 2022. As digital piracy rises amid pandemic, original content creators losing money: EY. [online] <<https://www.thehindu.com/sci-tech/technology/as-digital-piracy-rises-amid-pandemic-original-content-creators-losing-money-ey/article34748666.ece>> [Last visited 11 January 2022].

¹⁷*Id.* at 16.

¹⁸Maryam Farooqui. 2022. Here's How Online Platforms Are Trying to Outplay Pirates as Digital Piracy Rises. [online] <<https://www.moneycontrol.com/news/trends/entertainment/heres-how-online-platforms-are-trying-to-outplay-pirates-as-digital-piracy-rises-7080811.html>> [Last visited 11 January 2022].

¹⁹PallyCon. 2022. Analysis of VOD Piracy in OTT - PallyCon. [online], [Last visited 23 February 2022] <<https://pallycon.com/blog/analysis-of-vod-piracy-in-ott/>>.

²⁰*Id.* at 19.

In this method the content will be captured during the playback with a main intention to redistribute this will be done in various ways like screen recording or screen share capturing or using VPN to access the content which is not available in specific area.²¹

Mooching off is one another concern of these streaming platforms which causes indirect reduction in their turnover but, literally it cannot be called as piracy. Mooching off means using someone else's paid account with their password either with or without consent. This happens in a family or among friends where passwords are shared. Such sharing creates a reduction in the number of potential subscribers who might actually subscribe if such accessibility is not available to them.

Measures to control piracy

Controlling piracy is pivotal for the streaming platforms as it shakes their very basic existence. For the past few years many new technologies are being developed in order to curb online piracy and they are being employed successfully but still pirates somehow crack the protection walls built in by them.

Some of the measures implemented by the distributors or the content owners to mitigate such threats are Digital Rights Management (DRM), blocking credential sharing, forensic watermarking, encryption, secure hosting, restricting video playback etc. Video encryption prevent the users from accessing the content without authorisation using certain keys. But somehow if the pirates crack these encryptions, DRM technologies can be used to give more protection to the encryption thereby preventing illegal access to those keys. In both these cases protection is provided during transmission. In forensic watermarking technique protection is provided at the user's end and a unique identification mark given to the content which protect the video even when it is played. Blocking credential sharing is facilitated by installing multiple plugins or giving a unique ID, when a user logs in with some specific credential the ID will be active and during this time no other person can access the same account.²²

The streaming platforms are exploring the best possible ways to put an end to the piracy in all its forms, but strict and absolute legislations to back them up is still a missing element which pull them down in their mission.

²¹*Id.* at 19.

²²Pallycon, *supra* note 19.

Existing legislative framework to prevent digital piracy in India

India has a fair share of market for streaming services yet there is no legal framework which addresses the issues arising in these platforms. The Information Technology Act 2000 and the Copyright Act, 1957 has certain provisions which aims to deal with this menace. Section 14 of the Copyright Act gives the meaning of copyright and lays down the various exclusive rights that are vested in a copyright owner including the right to make copies, reproduce the work and store the work. Section 51 of the Act lays down that any deliberate storing of a work or its unauthorized reproduction and distribution constitutes copyright infringement and attracts civil and criminal liability.²³

Section 43 of the Information Technology Act, 2000 stipulates that any person who gains access to a computer, a network of computers, or computer systems, then proceeds to view, copy and extract the data present on the computer, either through digital means or through a removable storage medium (pen drive or hard disk), without prior authorization from the owner shall be liable to pay compensation. Section 66 of the act qualifies section 43 by providing that a person found liable for the offence mentioned in section 43 shall be liable for imprisonment extending upto 3 years or fine extending to 5 lakh rupees or both. However, these provisions do not expressly address the act of piracy let alone piracy in streaming services. Section 79 of the Information Technology Act, 2000 read with Rule 3 sub-rule 4 of the Information Technology (Intermediary Guidelines) Rules, 2011, makes it the responsibility of an intermediary to act with due diligence while performing its duties and ensure that it does not host or publish any information which infringes on the intellectual property rights of an individual or entity.²⁴ Recently **Telegram**²⁵ was on the wrath for facilitating unauthorised circulation of e-newspaper Dainik Jagran through user created channels thereby infringing the copyright of the plaintiff company. Delhi High Court directed Telegram to take down the channels and disclose the basic subscriber information of the users of the channels.

In this regard courts in US follow the ‘doctrine of inducement’ to assess whether responsibility for third-party copyright infringement can be attributed to the distributor of the equipment

²³ Sahana Priya, S., 2020. Copyright Infringement VIS-À-VIS OTT Video Piracy. [online] Indian Review of Advanced Legal Research. Available at: <<https://www.iralr.in/post/copyright-infringement-vis-%C3%A0-vis-ott-video-piracy>> [Last visited 14 January 2022].

²⁴ *Id.* at 23.

²⁵ Jagran Prakashan Limited v. Telegram FZ LLC, 2020 SCC OnLine Del 615

which is used to infringe. In **MGM Studios v. Grokster Ltd**²⁶ the United States Supreme Court ruled unanimously held that the defendant, a company that facilitates peer-to-peer file sharing, could be sued for Intellectual Property right infringement because it used to affirmatively promote file sharing, thereby encouraging direct infringement and profiting vicariously from such direct infringement committed by a third party. However, there aren't many cases that have come up in India in this regard and courts are yet to form an opinion on the doctrine.

The Copyright act has, by way of 2012 amendment adopted provisions 65A and 65B which are similar to Articles 11 & 12 of WIPO Copyright Treaty, 1998 and Articles 18 & 19 of WIPO Performers and Phonograms Treaty, 1996. Section 65A seeks to protect the Technological Protection Measures (TPM) used by copyright owners against circumvention. TPMs are tools which are used to restrict access or reproduction of the underlying protected copyrighted material through passwords, digital watermarks, digital locks, cryptography, etc.²⁷ They can be classified according to its function as either Access Control Technology which controls or restricts access to work, and Copy Control Technology which restricts the use/reproduction of the protected work.²⁸

Section 65A of the act recognizes TPM and provides that;

- *“any person who circumvents an **effective** technological measure applied for the purpose of protecting any of the rights conferred by this Act, with the intention of infringing such rights, shall be punishable with imprisonment which may extend to two years and shall also be liable to fine.”*²⁹

The first part deals with circumvention of TPMs. The section covers the act of circumventing as well as intention to infringe the rights of copyright holder. However, the word used “effective” is left undefined. The WIPO treaties also do not define what an effective technological measure is and, in that context, left it for the member states to define based on the domestic interests and needs. India whoever while incorporating section 65A into the act hasn't put forward criteria to determine technological measures that can be deemed as effective.

²⁶ 545 U.S. 913

²⁷ Yadav, S., 2022. Critically Analysing Section 65A of The Copyright Act, 1957. Journal of Intellectual Property Studies, III(II), pp.62-75.

²⁸ Robert C Denicola, Access Controls, Rights Protection, and Circumvention: Interpreting the Digital Millennium Copyright Act to Preserve Non-infringing Use, 31 COLUM. J. L. & ARTS 209 (2008).

²⁹ Section 65A of Copyright Act, 1956

This is problematic since it may create a barrier for a person claiming infringement as they'll have to first prove if the technological measure adopted is effective. In such a scenario, it may be presumed that it is left to judicial dictum and the courts in the country have to qualitatively examine the effectiveness of watermarks on a case-to-case basis and adjudge without any pre-set standards. However, the catch here is, if the technological measure adopted is deemed 'ineffective' due to lack of technical foresight then the claimant may lose the right to remedy against circumvention guaranteed under the act.³⁰ In USA, as per Section 1201(a)(3)(B) of Digital Millennium Copyright Act 1998, a technological measure is effective if in the ordinary course of its operation, it limits access to the protected work, similarly European Union Directive 2001/29, under Article 6(3) a TPM is effective if it achieves the intended protection.³¹

Although there is such a speculation concerning the provision, the particular enactment is more in liaison with the requirements of WIPO Internet Treaties and is closer to its EU counterpart. Unlike USA which clearly lays down that circumvention of "effective access control" TPM as an offence, the Indian legislation presumably covers both access control as well as copy control TPM.³²

Then we have section 65B which grants protection to copyright owner against unauthorized tampering of their Rights Management Information (RMI) and imposes imprisonment of 2 years with fine to persons who knowingly removes, alters the RMI or distributes, imports for distribution, broadcasts or communicates to public copies of the work or performance whose RMI has been removed without authority. It also stipulates that the owner can also avail a civil remedy against unauthorized tampering of their RMI. This provision is precisely worded and more stringent compared to section 65A as there are no exceptions laid down against compliance. However, the provision in its present form is amiss the possibility that transformations or mutilation of digital watermarks carrying the RMI may be destroyed in the process of simple transformations such as compression of images to JPEG or MPEG compression of videos.³³

These provisions to an extent try to act against the basic phenomenon of pirating content in digital medium and guarantees stringent penal measures against pirates, however practically

³⁰ Chakraverty, P., 2015. Effective Applicability of Sections 65A and 65B of Copyright (Amendment) Act, 2012 using Case Study of Digital Watermarks. *Journal of Intellectual Property Rights*, 20, pp.388-397.

³¹*Id.* at 30.

³²Yadav, *supra* note 27

³³*Id.* at 32.

they are only effective and can be applied in cases where a particular individual or entity can be identified as a pirate and held accountable. In the case of digital piracy, the nexus of the problem is that it is extremely difficult to hunt down the pirate, and by the time it is done, the content has already spread like wildfire. This where the judiciary stepped up and started issuing John Doe order, also known as Rolling Anton Pillar order or Ashok Kumar orders these are pre-infringement remedy which is in the form of temporary *ex parte* injunctions, sought by the creator apprehending infringement of their work. A John Doe order is granted under Order 39 Rules 1, 2 and read with Section 151 Civil Procedure Code and was first issued in the case *Taj Television v. Rajan Mandal*³⁴ where the court restrained the transmission of FIFA World Cup by unlicensed cable operators and the plaintiff was allowed to search and seize devices of unknown defendants. Nowadays producers are increasingly relying on John Doe orders before release of their movies and films like Padmaavat, Hichki, Pad Man, Pari, Don 2, Masaan etc had secured a John Doe order to avert any copyright infringement and piracy. Recently the Delhi Court ordered blocking of 34 Rogue websites which indulged in piracy by streaming content of Universal, Netflix and Disney etc.³⁵

Legislative measures adopted by other countries to curb digital piracy

USA

With the increase in illegal streaming the Unites States of America on 27th December 2020 signed into law The Protection of Lawful Streaming Act as part of the Consolidated Appropriations Act 2021. The bill amended title 18, United States Code, by inserting a new section 2319C titled “Illicit digital transmission services,” which lists the prohibited acts that will be subject to heightened penalties.³⁶

The act recognizes illegal streaming as a Felony and provides that any person who;

- a) wilfully,
- b) for purposes of commercial advantage or private financial gain and

³⁴ IA NO. 5628/2002 in CS (OS) 1072/2002

³⁵ Universal City Studios LLC. & Ors v. 123Movieshub.TC & Ors CS(COMM) 116/2022

³⁶ Madigan, K., 2021. Protecting Lawful Streaming Act Signed into Law: What You Need to Know. [online] Copyright Alliance. Available at: <<https://copyrightalliance.org/protecting-lawful-streaming-act-signed/>> [Last visited 15 January 2022].

- c) offer or provide to the public a digital transmission service.

will be prosecuted for committing the offence under the act.

The law targets digital transmission services engaged in illegal streaming for commercial advantage or private gain. It does not apply to individual streamers who view the pirated content. Therefore, the law does not penalize individual consumers unless they facilitate such illegal streaming and aims at deterring consumers from viewing pirated content.

Penalties vary with first-time offenders subject to a fine or imprisonment of not more than 3 years, or both. Repeat offenders may face up to 10 years of imprisonment and fine.

Certain types of infringement garner enhanced penalties under the act. These include infringement of “works being prepared for commercial public performance,” such as newly released movies and live streaming sporting events. Increased fines and/or imprisonment of up to 5 years may be imposed by the court.

Malaysia

Malaysia’s Dewan Rakyat (House of Representatives) passed the Copyright (Amendment) Bill 2021 which, among other things, addresses the challenges of illegal streaming. The first section of the amendment deals with those who “commit or facilitate infringement” of copyright by manufacturing a streaming technology for sale or hire, importing a streaming technology, selling or letting for hire (including offering, exposing or advertising for sale or hire), and/or possessing or distributing a streaming technology in the course of a business.

It expands to include distributing or offering to the public an infringing streaming technology or service other than in the course of a business, to such an extent “as to affect prejudicially the owner of the copyright.”

The penalty imposed for contravening the amendments are ten thousand ringgit (US\$2,377) up to a maximum of two hundred thousand ringgit (US\$47,545). In addition to fines, there are also custodial sentences stipulated under the bill that could reach a staggering 20 years imprisonment in the most serious of cases.

Australia

Australia adopted the Copyright Amendment (Online Infringement) Bill 2015³⁷ to deal with the problem of digital piracy in the form of the widespread streaming and downloading of content online facilitated by overseas operators. The legislation allows rights holders to apply to the Federal Court for an order that an internet provider disable access to infringing sites located outside Australia.

Section 151A of the Copyright Act provides that the owner of a copyright may apply to the Federal Court of Australia for an injunction that requires a carriage service to take the steps the court considers reasonable to block an online location outside Australia that:

- Infringes, or facilitates infringement, of copyright;
- Has the primary purpose or the primary effect of infringing, or facilitating an infringement, of copyright (whether or not in Australia);
- The application may also seek an order that an online search engine provider take such steps as the Court considers reasonable so as to not provide a search result that refers users to the online location.

The court grants injunction in terms it considers appropriate, including:

- (a) requiring the carriage service provider to take reasonable steps to do either or both of the following:
 - (i) blocking domain names, URLs and IP addresses that provide access to the online location and that are specified in the injunction;
 - (ii) blocking domain names, URLs and IP addresses that the carriage service provider and the owner of the copyright agree, in writing, have started to provide access to the online location after the injunction is made; and
- (b) requiring the online search engine provider to take reasonable steps to do either or both of the following:

³⁷ Copyright Amendment (Online Infringement) Act 2018, No. 157, 2018

- (i) not providing search results that include domain names, URLs and IP addresses that provide access to the online location and that are specified in the injunction;
- (ii) not providing search results that include domain names, URLs and IP addresses that the online search engine provider and the owner of the copyright agree, in writing, have started to provide access to the online location after the injunction is made.

Once an injunction has been obtained, a copyright holder can block mirror and proxy sites that facilitate digital piracy without the need to return to court.

Suggestions

Problem of piracy is mounting up in an alarming rate and has to be brought under control with an immediate effect. This cannot be eradicated completely in one stretch, for effective control of online piracy step by step approach has to be adapted. To start with, piracy has to be analysed and addressed from both supply side and the demand side i.e., the OTT service providers and the consumers. The streaming sites with the help of internet service providers can take measures to block the sites which are engaged in streaming of pirated contents. Analysing the consumer behaviour by stressing on factors like consumer expectation, spending capacity, viewing trends and the reason for their need to access pirated contents etc. solves the issue to a certain extent. If the consumers are delivered with better viewing experience, subscribing packages with reasonable cost, exciting offers, ad free contents by not compromising in quality then they would not go behind pirated contents.

The copyright holders are left in lurch for the courts to dictate on their issues without any statutory backing. It is need of the hour for the country to have a stringent and effective legislation which emphatically penalize the various methods devised to commit streaming piracy. Taking the lead from other countries India must adopt an anti-piracy legislation targeting the generators of pirated content leaving behind the end users.