Enforcement Remedies to Sustain Copyright in the Digital Economy

Michael Schlesinger
Regional Workshop on the Disruption in the Digital Creative Economy: A
Multifaceted Challenge with Great Potential

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Updates to Copyright Laws for the 21st Century

- Trafficking in "Illicit Streaming Devices" or piracy apps
- Protect foreign works (national treatment and most favored nation)
- Communication to the public right including the making available right.
- Exclusive retransmission right over the Internet.
- Contributory and vicarious or facilitation or authorization liability.
- Simultaneous or near-simultaneous fixation (i.e., live broadcast events shall be protected from unauthorized re-broadcast or retransmission so long as an ephemeral copy is made).
- Site blocking, including dynamic (real-time) and flexible (i.e., notification) orders as to variances, and covering either single title (e.g., live event) or entire online location.
- Term extension.
- Rework safe harbors so that knowledge or constructive knowledge triggers requirement for effective remedial action, and dissolves 'no facilitation' defense.
- TPMs and RMI (WIPO Treaties)
- Camcording (possession of an audiovisual recording device in a cinema/theater)

Trafficking in "ISDs" or piracy apps

Anyone who manufactures, creates, imports, loads, distributes, hosts, offers to the public, provides, or otherwise traffics in [illicit media devices, products, or components, including apps or add-ons], or offers to the public, or provides or hosts services related thereto, that:

- (A) are promoted, advertised, or marketed for the purpose of infringing copyright, or enabling or facilitating infringement of copyright;
- (B) have only a limited commercially significant purpose or use other than to infringe copyright, or enable or facilitate the infringement of copyright; or
- (C) are primarily designed, produced, or performed for the purpose of infringing copyright, or enabling or facilitating the infringement of copyright, shall be liable and subject to civil (and administrative) remedies. Anyone who engages wilfully and for the purposes of commercial advantage or financial gain in any of the above activities shall be liable under criminal procedures and penalties.

Enforcement Remedies to Sustain Copyright in the Digital Economy

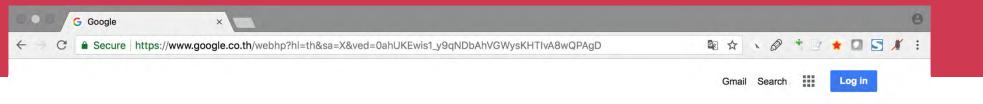
Disable Consumer Access to...

Copyright Piracy Sites

Piracy
Devices and
Apps

Malware Distribution

High Risk Advertising





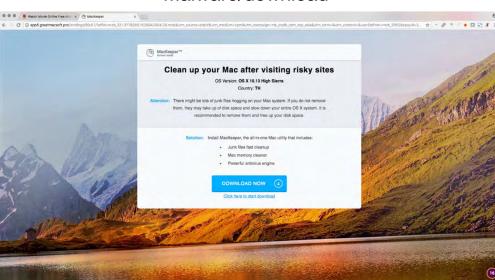


High Risk Advertising (Watters study, 2014)

movie2free.com (piracy)

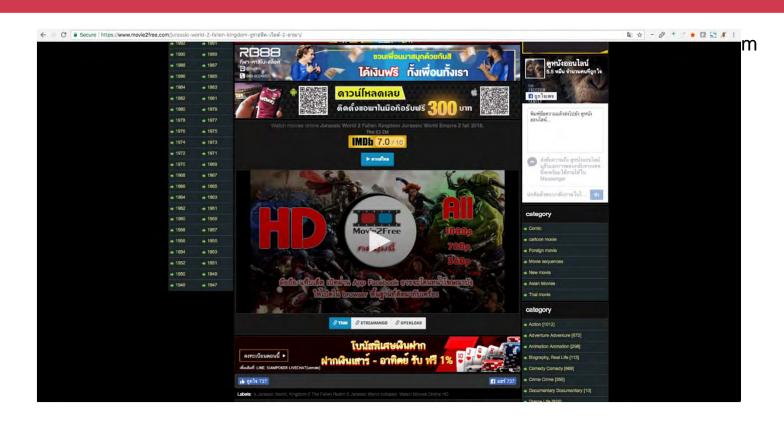




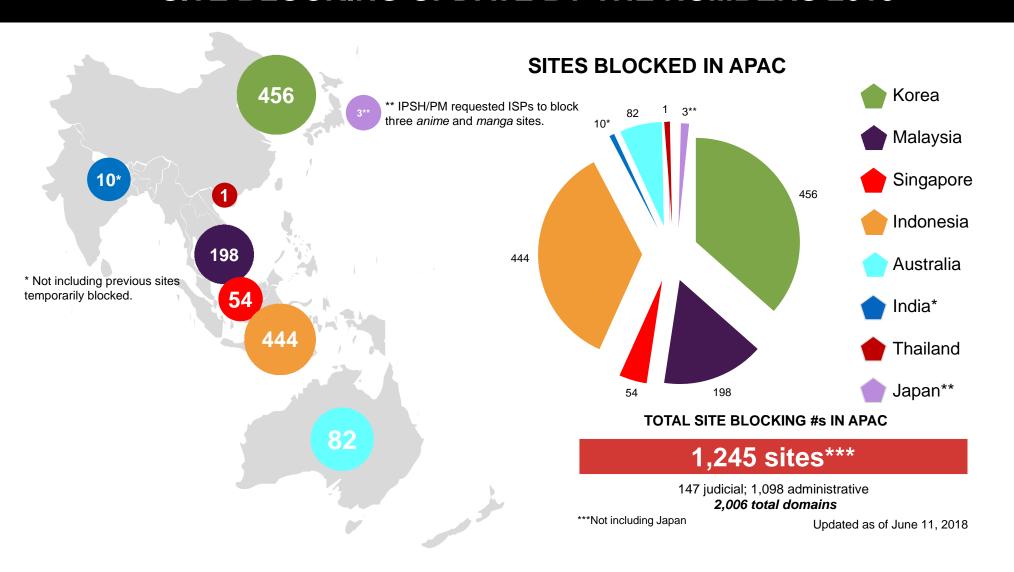


- For local language sites, 6.26% of movie and TV ads were Mainstream, while 93.74% were High Risk.
- Advertising for the gambling industry comprised 16.05% of the high risk ads, and the sex industry, 62.22%.
- Malware and "download" sites were also common advertisers.

High Risk Advertising (Watters study, 2014)



SITE BLOCKING UPDATE BY THE NUMBERS 2018



Countries with, or Obligated to Have, Measure to Disable Access to Infringing Sites The Emerging Best Practice



Site Blocking Works to Reduce Online Infringement

KOREA CASE STUDY



90% average decrease in visits to blocked sites as of three months after a block



51% decline in visits to P2P sites as of three months after the third wave of blocks in June 2015 compared to one month before

MPA Study on Site Blocking Impact in South Korea, June 2016

Site Blocking Works to Reduce Online Infringement

CHANGE IN ALEXA ESTIMATED USAGE FOR AUSTRALIA TOP 250 UNAUTHORISED SITES

COMPARISON OF AUSTRALIA TO GLOBAL CONTROL

OCTOBER 2016 vs NOVEMBER 2017

SITES BLOCKED IN AUSTRALIA

TOP 250 UNAUTHORISED SITES

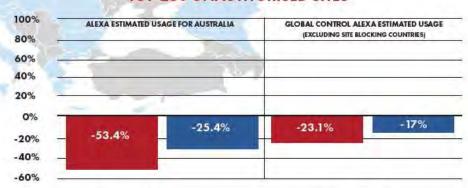
IN AUSTRALIA

53.4%

- Site blocking in Australia has resulted in a usage reduction of 53.4% to sites blocked in August 2017, when compared to before blocking was implemented.
- Usage has decreased for each blocking wave implemented in the country.

AUSTRALIA CASE STUDY:

TOP 250 UNAUTHORISED SITES



23.1% GLOBALLY

 Blocks have therefore decreased usage of those sites in the target region of Australia by 30.3% more than they have decreased in the global control.



35.1%

- The usage of the top 50 sites in Australia has decreased by 35.1% since October 2016.
- This is 25.5% further than the 10.6% in the previous report.
- The impact of the two August 2017 blocking injunctions is the driving force behind these changes;

Incopro, December 2017

Site Blocking Works to Reduce Online Infringement

UK CASE STUDY:

INJUNCTIONS INCREASE TRAFFIC TO LEGAL SOURCES OF CONTENT

- ↑ 12% average increase in usage of legal streaming sites like Netflix for all users of the major piracy sites blocked in the UK in 2013
- 23.6% increase in usage of legal streaming sites among the heaviest users of those major piracy sites

The Effect of Piracy Website Blocking on Consumer Behavior, Carnegie Mellon University, November 2015

- ♦ 6% increase in visits to paid legal streaming sites like Netflix^
- 22% decrease in total piracy for all users affected by the blocks
- ↑ 10% increase in videos viewed on legal adsupported streaming sites like BBC and Channel 5

^The latest figure may be lower due to increased price sensitivity of the remaining pirates in 2014 or due to the lower popularity of the 53 sites in 2014 compared with the 19 sites blocked in 2013.

Website Blocking Revisited: The Effect Of The UK November 2014 Blocks
On Consumer Behavior, Carnegie Mellon University, April 2016

Without Piracy, Box-Office Revenue Would Have Been 14 - 15% Higher Per Year.

The Dual Impact of Movie Piracy on Box-Office Revenue: Cannibalization and Promotion, Camegie Mellon University, February 2016

Piracy Devices and Apps

- Since 2010 we have witnessed a proliferation of piracy streaming devices - devices being sold that illegally provide customers with free access to unauthorized motion picture and television content.
 - They are sold through websites, social media (eg Facebook), retail outlets, or even home delivery.



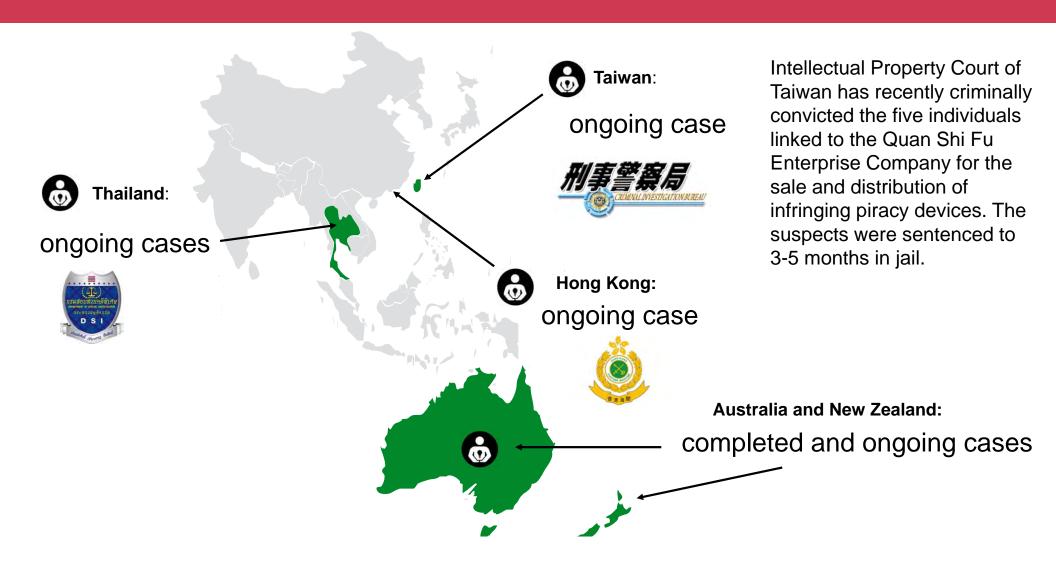






- Legitimate boxes such as the Apple TV and Roku TV are designed to prevent the loading of applications designed to access unauthorized content.
- Other boxes are not designed as such, and many are marketed and advertised to provide illegal access and "cut the cord" (which amounts to obtaining content without permission from the creators).

Use of SB, Criminal Referrals and Knock and Talks to Address Piracy Devices and Apps

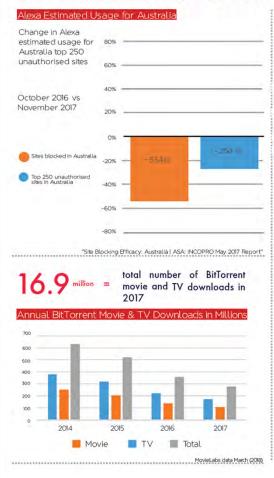


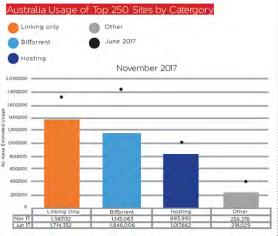
Appendix – Piracy Briefers

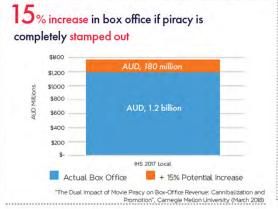
AUSTRALIA'S PIRACY LANDSCAPE 2018

PIRACY WEBSITES BLOCKED IN AUSTRALIA SEES

53.4% DROP IN USAGE







"Site Blocking Efficacy: Australia | ASA: INCOPRO May 2017 Report"

In Australia, local visits at legitimate sites are 6.16 times higher than those at pirate sites

Legitimate Online Video Services









WINEWS

nn 5 Dirate Sites

The top five pirate sites received a total of 8,869,386 page views from Australians in March 2018

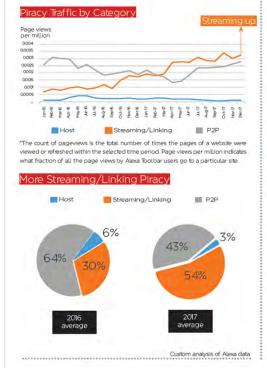
RANK	WEBSITE	TOTAL VISITS	LOCAL VISITS
1	thepiratebay.org	158,832,121	2,846410
2	rarbg.to	56,100,141	1,614462
3	kissanime.ru	57,796,900	1,567,949
4	eztv.ag	27,869,636	1,551,848
5	myanimelist.net	46,819,073	1,288,717

Custom analysis of Alexa data (March 2018)

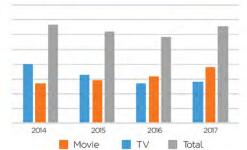
HONG KONG'S PIRACY LANDSCAPE 2018

SIGNIFICANTLY UP

Increased pageviews of an 376% = average user of streaming piracy websites between Jan 2016 & Dec 2017



STREAMING PIRACY 65.9 million = total number of BitTorrent movie and TV downloads in 2017



BitTorrent piracy has seen a reduction in 2015, possibly due to a user shift to host sites such as rapidgator.net and link sites such as maplestage.com.

"Profits streaming away: Why Hong Kong broadcasters are crying foul over set-top boxes"

-SCMP

- Internet Streaming Devices (ISDs) set top boxes loaded with apps, pose a major new piracy threat to the film and television industry
- · These devices are easily available in Hong Kong
- · The devices enable users to watch thousands of hours of copyrighted film and TV content for no
- · Local authorities are considering taking enforcement operations against criminal syndicates selling ISDs

In Hong Kong, local visits at legitimate sites are 1 46 times higher than those at pirate sites

egitimate Online Video Services







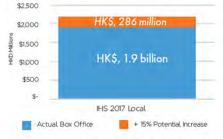


ocal Pirate Site Visits: 4407,925

WEBSITE (TOP 5)	TOTAL VISITS	LOCAL VISITS
8maple.ru	10,724,973	1,793426
eyny.com	26,302400	844,319
maplestage.com	9,282,778	655,839
thepiratebay.org	158,832,121	561,568
rarbgproxy.org	12,160,464	552,773

Custom analysis of Alexa data, March 2018

15% increase in box office is piracy is completely stamped out

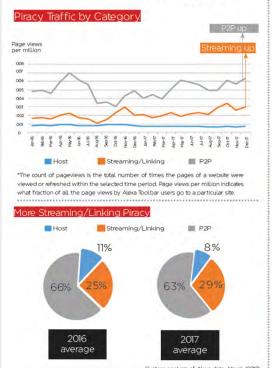


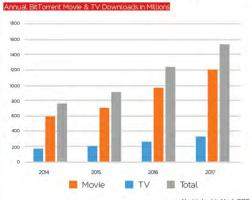
"The Dual Impact of Movie Piracy on Box-Office Revenue: Cannibalization and Promotion", Carnegle Mellon University, February 2017

INDIA'S PIRACY LANDSCAPE 2018

Streaming and P2P piracy 1.5 billion = total number of BitTorrent movie and TV downloads in 2017 **CONTINUE TO RISE**

Increased pageviews of an average user of streaming piracy websites between Jan 2016 & Dec 2017





WHAT'S AT STAKE?

In 2017:

USD 33.3 billion (INR 216,667cr.) =

film & television industry contribution to the Indian Economy

2.36 million = number of jobs supported by film & television industry

In India, local visits at legitimate sites are 3 times higher than those at pirate sites

Legitimate Online Video Service











ocal Pirate Site Visits: 23.911.85

(TOP 5)	TOTAL VISITS	LOCAL VISITS
rarbgis	24,962,718	5,687,326
thepiratebay.org	158,832,121	5,383,391
1337x.to	53,900,021	5,178,818
torrentz2.eu	25,385v,681	3,945,763
fmovies.pe	10,606,947	3,716,554

Custom analysis of Alexa data (March 2018)

15% increase in box office if piracy is completely stamped out



"The Dual Impact of Movie Piracy on Box-Office Revenue: Cannibalization and

INDONESIA'S PIRACY LANDSCAPE 2018

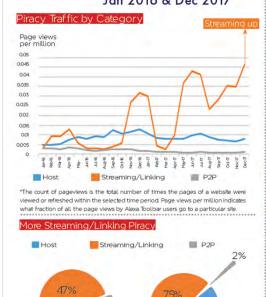
STREAMING PIRACY SIGNIFICANTLY UP

1,420% = average user of streaming piracy websites between Jan 2016 & Dec 2017

2017

average

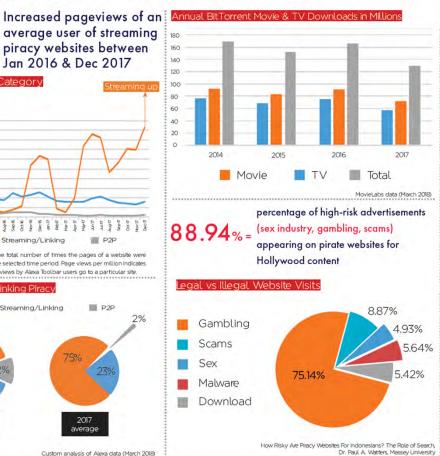
Custom analysis of Alexa data (March 2018)



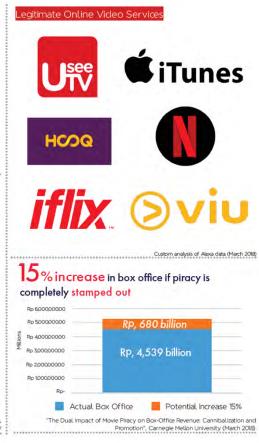
average



total number of BitTorrent 129 million = movie and TV downloads in



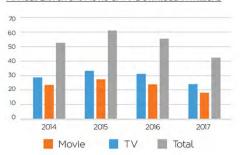
Local visits at pirate sites are 2.17 times higher than those at legitimate sites.



New Zealand's Piracy Landscape

42 million = total number of BitTorrent movie and TV downloads in 2017

Annual BitTorrent Movie & TV Download in millions



BitTorrent piracy has seen further reduction in 2017, possibly due to a user shift to link sites such as gostream.is and 123movies.

MovieLabs data (December 2017)

96.34% = percentage of high-risk advertisements (sex industry, gambling, malware) appearing on movie/TV pirate websites



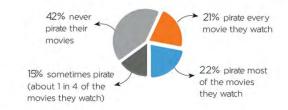
93.26% of ads were High Risk on music pirate sites, while 6.74% were Mainstream. 57.71% of High Risk ads on movie/TV pirate sites and 7.24% of ads on music pirates sites were malware.

Sweet As? Advertising on Rogue Websites in New Zealand. Dr. Paul A. Watters, Massey University (April 2014)



51% of Kiwis regularly watch movies online, of which

43% usually watch from an illegal source



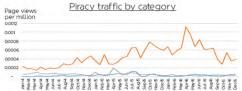
2015 report by Flicks.co.nz

Top 10 sites used for online piracy in New Zealand in 2017

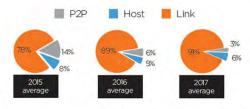
	HOST	ALEXA RANK	LINK	ALEXA RANK	P2P	ALEXA RANK
1	vidzitv	195	gostreamis	90	thepiratebay.org	21
2	gorillavidin	304	Itswatchseries.to	116	rarbg.to	108
3	thevideome	438	primewire.ag	200	eztv.ag	214
4	betaviciupme	655	Ol23movies.com	241	freshseriesnet	2346
5	dactipsin	1225	putlockers.fm	254	avistaz.to	3044
6	longfiles.com	2367	solarmoviezru	270	speed.cd	3163
7	vidme	2480	yesmovles.to	293	piratebay.to	3553
8	hightail.com	2582	123movieshub.to	321	forums.mvgroup.org	3716
9	uploadrocket.net	2582	watch-series/s	390	freetpb.co.nr	4109
10	auroravid.to	6167	123moviesfree.ac	454	dimeadozen.org	4737

Custom analysis of Alexa data (December 2017)

97% of all page views at pirate sites are at host sites, i.e. cyberlockers (6%) and link sites (91%), on average in 2017

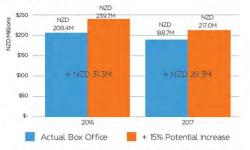


The count of pageviews is the total number of times the pages of a website were viewed or refreshed within the selected time period. Page views per million indicates what fraction of all the page views by Alexa Toolbar users go to a particular site.



Custom analysis of Alexa data (December 2017)

15% increase in box office if piracy is completely stamped out



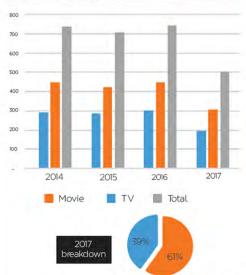
"The Dual Impact of Movie Piracy on Box-Office Revenue: Cannibalization and Promotion", Carnegle Mellon University (February 2016)

PHILIPPINES' PIRACY LANDSCAPE 2018

BitTorrent piracy is down but still a problem

million = total number of BitTorrent movie and TV downloads in 2017





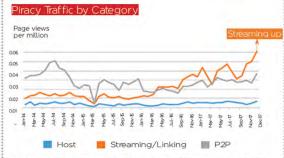
for movies and shows

There are over 22 million visits to infringing websites in the Philippines, compared to 18 million visits to the top 3 legal sites

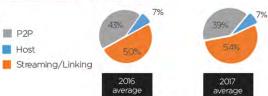
MovieLabs data (December 2017)

STREAMING PIRACY SIGNIFICANTLY UP WHILE P2P DECLINES

increased pageviews of an 75.14 % = average user of streaming piracy websites between 2016 & 2017



*The count of pageviews is the total number of times the pages of a website were viewed or refreshed within the selected time period. Page views per million indicates what fraction of all the page views by Alexa Toolbar users go to a particular site.



economic contribution of film & TV industries

gross domestic product represented by film & TV copyright industries

Joint study by the Intellectual Property Office of the Philippines (IPOPHL) and the World Intellectual Property Organization (WIPO), 2014

5% increase in box office if piracy is completely stamped out



"The Dual Impact of Movie Piracy on Box-Office Revenue: Cannibalization and Promotion", Carnegie Mellon University (February 2017)

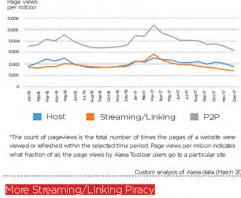
SINGAPORE'S PIRACY LANDSCAPE 2018

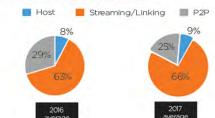
GRADUAL DECREASE

OF STREAMING PIRACY & P2P

Increased pageviews of an average user of streaming piracy websites between Jan 2016 & Dec 2017

Piracy Traffic by Category

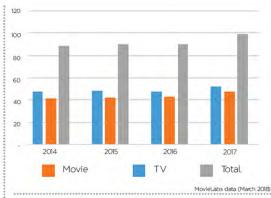




Custom analysis of Alexa data (March 2018)

total number of BitTorrent Omillion = movie and TV downloads in 2017

BitTorrent Movie & TV Downloads in Million:



percentage of high-risk movie/ TV advertisements (i.e. sex industry, gambling, malware, scams) appearing on pirate websites



Measuring Online Advertising Transparency in Singapore: An investigation of Threats to Users, Dr. Paul A. Watters, Massey University, March 2018 Local visits at pirate sites are 1.14 times higher than those at legitimate sites.

egitimate Online Video Services









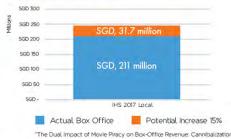


ocal Pirate Site Visits: 7,225,349

WEBSITE (TOP 5)	TOTAL VISITS	LOCAL VISITS
kissanime.ru	57,796,900	1,712,560
thepiratebay.org	158,832,121	1,364,532
kissasian.ch	25,012429	1,318,244
kshowonline.com	10,036,112	952,801
rarbgproxy.org	12,160464	635,626

Custom analysis of Alexa data (March 2018)

15% increase in box office if piracy is completely stamped out



"The Dual Impact of Movie Piracy on Box-Office Revenue: Cannibalization and Promotion", Carnegle Mellon University, March 2018

SOUTH KOREA'S PIRACY LANDSCAPE 2018

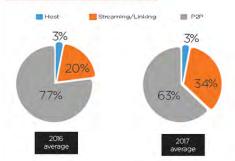
STREAMING PIRACY SIGNIFICANTLY UP WHILE P2P DECLINES

Increased pageviews of an 81.5% = average user of streaming piracy websites between Jan 2016 &

Piracy Traffic by Category

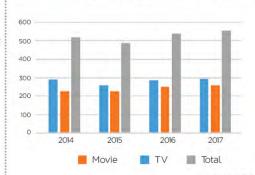


viewed or refreshed within the selected time period. Page views per million indicates what fraction of all the page views by Alexa Toolbar users go to a particular site.

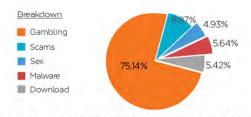


Custom analysis of Alexa data (March 2018)

552 million = total number of BitTorrent movie and TV downloads in 2017



percentage of high-risk movie/TV advertisements (sex industry, gambling, malware) appearing on pirate websites alongside local content



COPIED FROM INDONESIA AS THERE WAS NO PIRACY LANDSCAPE FOR KOREA LAST YEAR

> How Risky Are Piracy Websites For Indonesians? The Role of Search, Dr. Paul A. Watters, Massey University (July 2014)

In South Korea, local views at pirate sites are 2.10 times higher than those at legitimate sites

egitimate Online Video Services











ocal Pirate Site Visits: 7,653,82

(TOP 5)	TOTAL VISITS	LOCAL VISITS
tzoame	2,618,764	2,235,900
torrent.cam	2,283431	1,774,087
torrenthaja.com	1,854,181	1,584,524
linktv.pro	2,661,160	1,064,144
tcorea.com	1,309,035	995,166

Custom analysis of Alexa data (March 2018)

15% increase in box office is piracy is completely stamped out



The Dual impact of Movie Piracy on Box-Office Revenue: Cannibalization and Promotion", Carnegle Mellon University (February 2017)

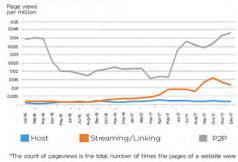
TAIWAN'S PIRACY LANDSCAPE 2018

P2P SIGNIFICANTLY UP

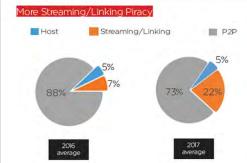
608%

Increased pageviews of an average user of streaming piracy websites between Jan 2016 & Dec 2017

Piracy Traffic by Category



*The count of pageviews is the total number of times the pages of a website were viewed or refreshed within the selected time period. Page views per million indicates what fraction of all the page views by Alexa Toolbar users go to a particular site.



Custom analysis of Alexa data (March 2018

39%

percentage of high-risk advertisements (sex industry, gambling, malware, scams) appearing on pirate websites

Movie/TV Advertisements

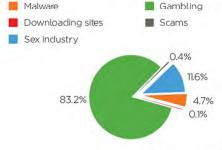




A significant number of household name brands in Taiwan are choosing to advertise on rogue sites, which are facilitating the distribution of infringing content (movies and TV shows).

While it is positive that Taiwanese viewers are being exposed to fewer higher risk ads, it is also extremely concerning that they would see almost 40 times more mainstream ads than Australians visiting a similar number of

equency by Ad Category - High-Risk Advertising



Mainstream Advertising Support for Online Piracy in Taiwan. Dr. Paul A. Watters, Massey University, March 2018 In Taiwan, local page views at pirate sites are 3.43 times higher than than those at legitimate sites

Legitimate Online Video Services









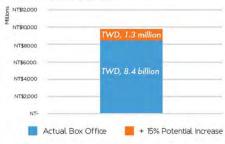


ocal Pirate Site Visits: 38,506,82

WEBSITE	TOTAL VISITS	LOCAL VISITS
eyny.com	26,302400	21,579,168
58b.tv	8,002,671	7,792,768
8maple.ru	10,724,973	5,661,681
maplestage.com	9,282,778	3,473,206
anime1.me	3,201,241	1,825,681

Custom analysis of Alexa data (March 2018)

15% increase in box office is piracy is completely stamped out

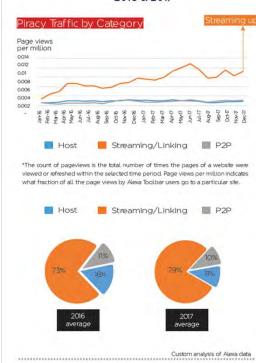


"The Dual Impact of Movie Piracy on Box-Office Revenue: Cannibalization and Promotion", Carnegie Mellon University, March 2018

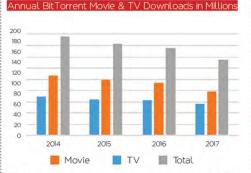
THAILAND'S PIRACY LANDSCAPE 2018

STREAMING PIRACY SIGNIFICANTLY UP WHILE P2P DECLINES

81.35% = Increased pageviews of an average user of streaming piracy websites between 2016 & 2017



STREAMING PIRACY 135 million = total number of BitTorrent movie and TV downloads in 2017



BitTorrent piracy has seen a slight reduction in 2017, possibly due to a user shift to host sites such as 4shared.com and link sites such as movie2free.com.

93.74% = percentage of high-risk advertisements (sex industry, gambling, malware, scams) appearing on pirate websites



In particular, 62.22% of High Risk ads were for the sex industry and 16.05% were for gambling.

The Impact of High Risk Advertising on Thal Social. Values: The Role of Piracy Websites Dr. Paul. A. Watters, Massey University, March 2015 In Thailand, local views at pirated sites are 3.85 times higher than those at legitimate sites

Legitimate Online Video Services









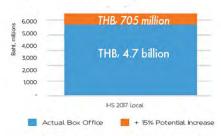


Local Pirate Site Visits: 27,949,253

(TOP 5)	TOTAL VISITS	LOCAL VISITS
movie2free.com	13,185,465	12485,019
siambitme	4,971434	4,795,748
037hd.com	4,362,665	4,206,832
subthai.co	3,421,159	3,271,203
kseries.co	3,332,312	3,190450

Custom analysis of Alexa data (March 2018)

15% increase in box office if piracy is completely stamped out

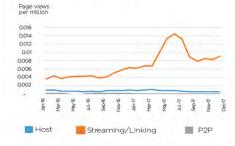


"The Dual Impact of Movie Piracy on Box-Office Revenue: Cannibalization and Promotion", Carnegie Mellon University, February 2016

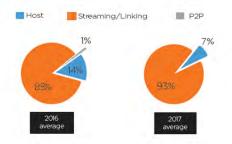
VIETNAM'S PIRACY LANDSCAPE 2018

STREAMING PIRACY SIGNIFICANTLY UP

Increased pageviews of an average user of streaming piracy websites between Jan 2016 & Dec 2017



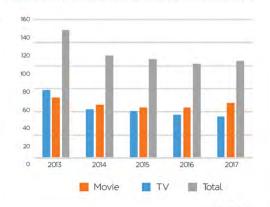
*The count of pageviews is the total number of times the pages of a website were viewed or refreshed within the selected time period. Page views per million indicates what fraction of all the page views by Alexa Toolbar users go to a particular site.



Custom analysis of Alexa data

84 million = total number or birrorrein in and TV downloads in 2017 total number of BitTorrent movie

Annual BitTorrent Movie & TV Downloads in Million



The world's largest piracy site 123 movies closing down for good; urges people to buy content

- 98 million visitors a month
- · Listed in latest US Trade Representative's Notorious Markets report
- 123 movies message to users: "PS: Please pay for the movies/shows, that's what we should do to show our respect to people behind the movies/shows."

In Vietnam, local page views at pirate sites are 12.43 times higher than than those at legitimate sites

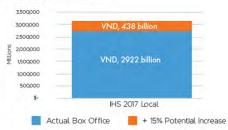
egitimate Online Video Services



WEBSITE	TOTAL VISITS	LOCAL VISITS
phimmoinet	23,009,182	22,138,803
banhtv.com	8,642,057	7,578,384
phimbathu.com	7,701,688	6,598,188
bilutv.com	7429,668	6,150,777
anime47.com	4,391,842	4,133,260

Custom analysis of Alexa data (March 2018)

15% increase in box office if piracy is completely stamped out



"The Dual Impact of Movie Piracy on Box-Office Revenue: Cannibalization and Promotion", Carnegie Mellon University, February 2017

Japan's Piracy Landscape 2016

31% of Japanese internet users were involved in some form of movie or TV piracy in 2015.

Share of users by category



51% of Japanese users access P2P download sites and applications, 49% of users access webbased sites used for online piracy including host sites i.e. cyberlockers (43%) and link sites (6%).

custom analysis of comScore data

22.3 million = average unique users for online piracy sites or applications per month in 2015

Site/App Users, % of Pageviews (Analysis of Alexa Data)



At the end of 2014, and in early 2015, there was a significant increase in Japan's page views to sites in the host site category, including rapidgator.net, uploaded.net and uploadable.cu.



TOP 10 Sites/Applications Used for Online Piracy in 2015 by Category

NO.	HOST	ALEXA RANK	REACH PER MM
1	ziddu.com	138	0.091372
2	uploadable.ch	153	0.059267
3	uploadednet	186	0.048846
4	rapidgator.net	190	0.042824
5	videomegatv	283	0.036692
6	flashx.tv	354	0.030295
7	datafile.com	436	0.028218
8	streamin.to	501	0.027401
9	faststore.org	550	0.023123
10	bitshare.com	804	0010525

NO.	LINK	ALEXA RANK	REACH PER MM
1	b9dm.com*	158	0.040482
2	jpddLcom	1128	0.009131
3	megafilmeshd.net	2334	0.002389
4	avxhomese	2893	0.002247
5	filmesonlinegratisnet	2950	0.001734
6	avaxhm.com	3243	0.00196
7	armagedomfilmes.biz	4050	0.001248
8	phim3s.net	4256	0.001279
9	putlocker.is	4281	0
10	alluc.com	4366	0.001882

* b9dm.com numbers are from August 2016.

NO.	P2P	ALEXA RANK	REACH PER MM
1	kickass.so	535	0.005731
2	tokyotosho.info	763	0.01317
3	kickass.to	1041	0.000013
4	kat.cr	1056	0
5	torrentzeu	1989	0.005178
6	thepiratebay.se	2120	0.000153
7	bitsnoop.com	2389	0.002678
8	vitorrentnet	2432	0.004686
9	extratorrent.cc	3573	0
10	rutracker.org	3721	0

custom analysis of Alexa data