

From: [REDACTED]
Sent: 07 April 2017 12:04
To: Enforcement
Subject: Illicit IPTV Streaming Devices - Call for Views

Categories: IPTV call for views

Dear Sirs,

We, the Television Broadcasts Limited of Hong Kong ("TVB"), wish to express our appreciation to the UK Government for taking a very proactive approach in studying and addressing the illicit streaming device (ISD) problem.

In response to the paper on Call for Views, we have the following comments:

General comments -

1) We are not sure if enforcement agencies/policy departments in other governments have been informed of this very meaningful consultation exercise and invited to offer comments/views. If this has not been done, we would suggest that this be also done (even if it may require an extension of the consultation period). We would suggest to cover governments of Hong Kong, China, Australia, New Zealand, the US, Canada, Singapore and Malaysia. As far as the many UK broadcasters are concerned, the ISD problem in these countries/territory is very serious. Seeking their views in this consultation exercise may also have the effect of encouraging them to review and improve their laws to tackle the same ISD problem. The ISD problem is a global problem. If many more countries have improved their law to tackle the problem effectively, there will be little (or much less) 'territory' for the ISD syndicates to survive.

2) We suggest that this consultation exercise should include a second phase to allow further views/comments to be offered on the recommendations or proposed new legal provisions from the UK Government to tackle the problem. This close government/industry partnership approach should help draw up the best 'solutions' to address all practical problems.

Specific answers to -

Q1 : TVB used to have a subsidiary company in the UK, providing a pay-tv service. We also operated a local tv channel for the Chinese communities in Europe, including the UK. TVB programs are very popular in the huge Chinese markets in overseas countries. We used to have a very large customer base in the UK. Our UK subsidiary company was 'forced' to close down in December 2014 after running for over 20 years. The subscription of our pay-tv service was dropping rapidly since 2010-2011 when the ISD problem emerged. Most of our previous customers admitted frankly when stopping their subscription plans that they found the ISD attractive as they did not need to pay subscription fees to watch TVB programs. About 50 local staff lost their jobs in the UK subsidiary company when it was closed down.

Q4: The UK's Copyright Designs and Patent Act 1988 does not have relevant provisions to enable the UK police to take criminal actions on the import of ISDs or the sale of ISDs at physical shops / e-platforms (like eBay etc.). Using common law offences (e.g. fraud related offences) may give rise to evidential problem and make the whole enforcement strategy/action complicated. A simple provision aiming at stopping the import/sale (etc.) activities of ISDs should be created to make it easier for enforcement action to be carried out.

Sales of ISDs via e-platforms are becoming very easy and new provisions under Border Force related legislation should also be created to allow ISDs to be intercepted (and confiscated) by the Border Force at border control points.

Q7: TVB has lodged separate complaints with the US, Canada and Australia, and requested their enforcement agencies to take 'criminal' actions to stop the import/sale of ISDs. However, they all responded that there was no usable provision in their laws to enable them to take such actions. (TVB got the same response from PIPCU in 2014.)

Please contact me if you need further information.

Thanks.

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Senior IP Enforcement Advisor
TVB
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