

IPTV Call for views – CPS response

The Crown Prosecution Service (CPS) prosecutes all intellectual property crime investigated by the police where the case meets the test for prosecution set out in the Code for Crown Prosecutors. The majority of these cases involve fraudulent conduct on the part of individuals and corporate bodies. CPS Areas prosecute the less complex cases and the CPS Specialist Fraud Division (SFD) is equipped to prosecute those that are more complex.

The right to bring private prosecutions is preserved by section 6(1) of the Prosecution of Offences Act (POA) 1985. The CPS has no influence over the investigations or control over the subsequent prosecutions, however the Director of Public Prosecutions (DPP) has power under section 6(2) POA 1985 to take over private prosecutions in certain limited circumstances.

With the on-going development of the specialist Police Intellectual Property Crime Unit (PIPCU) in the City of London Police, focus is now being drawn on preparing a pipeline of future anticipated cases. SFD are working closely with PIPCU to make sure that the CPS is fully prepared for these cases and that we have a consistent and co-ordinated approach going forward.

To date only one case involving IPTV has been referred to SFD by PIPCU and it was successfully prosecuted.

In this case we prosecuted for the offence of intentionally encouraging or assisting an offence contrary to section 44 (1) Serious Crime Act 2007. The defendant had placed for sale on an Ebay account an IPTV receiver with the description 'MAG 250/254/255 IPTV 6 Months subs UK Premium+ HD Sports +Movies & VOD chn'.

An employee from Sky Plc, during a search of Ebay, identified the defendant advertising IPTV boxes and subscriptions for sale. On the 16th March 2015 the employer purchased an IPTV receiver from the defendant for £108. When he received the IPTV box through the post he was required to enter the server details 'uk.itvworld.mx', which was provided by the defendant, along with instructions to provide the devices MAC address to the defendant to 'activate his account'. Once the MAC address had been provided a message was received to state that the box was now live and to reboot. Once the device was rebooted he was able to see stream for various channels, including Sky Sports 5 and Sky Sports 3, where he was able to watch and stream a football match on Sky Plc's platform.

In late October 2015, PIPCU received a referral from Sky Plc concerning the above defendant which was suspected to be selling android set top boxes (referred to as 'STBs' or 'IPTV' boxes) with the capability to allow the end user to watch premium Sky Plc content, such as sports and movies without paying the subscription fee.

The defendant's details and his address were present on his Ebay account and on 16th February 2016 a section 8 warrant was executed at his address. Documentation was found at the address which supported the fact that the defendant was the operator of the Ebay account. In total 27 IPTV receivers were seized during the search. Although the receivers did not contain any apps and were unable to be used to access Sky services, it was agreed that a prosecution focusing on the test purchase item itself should be sufficient.

The Defendant pleaded guilty and was sentenced to a fine of £392 and a victim surcharge of £39, along with a contribution to prosecution costs.

Based on our limited experience of prosecuting these types of cases we are yet to experience any case law or barriers. We are also not aware of any cases where prosecution of ostensibly valid cases was not pursued.

Consequently it is too early to tell whether the legislation in this area is fit for purpose.