

**MPA**

EMEA

# Enforcement in practice

September 2022



**NETFLIX**





“Content is king”

Gates, 1996







“Content is king”

Gates, 1996

*“Something wicked  
this way comes...”*

Shakespeare, 1606



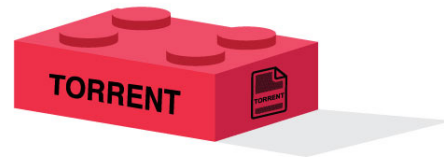
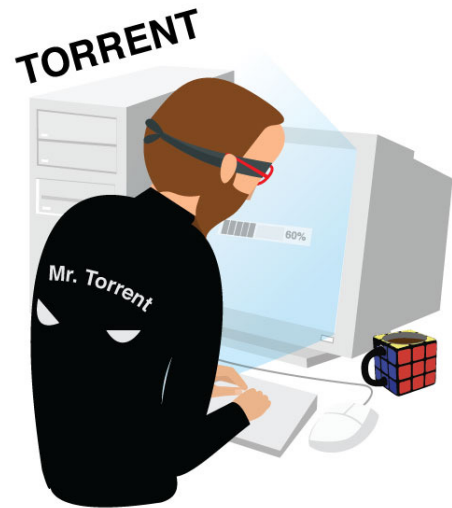
# Piracy is Something Wicked Indeed

- On average, pre-release movie piracy results in a **19% reduction in box office revenue** relative to what would have occurred if piracy were only available after the movie's release. (Carnegie Mellon University, 2014)
- If piracy could be eliminated from the theatrical window, then box-office **revenues would increase by 14-15%**. (Carnegie Mellon University, 2016)

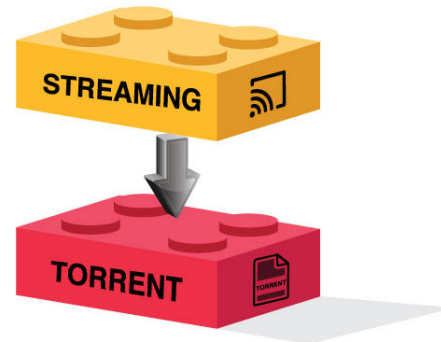
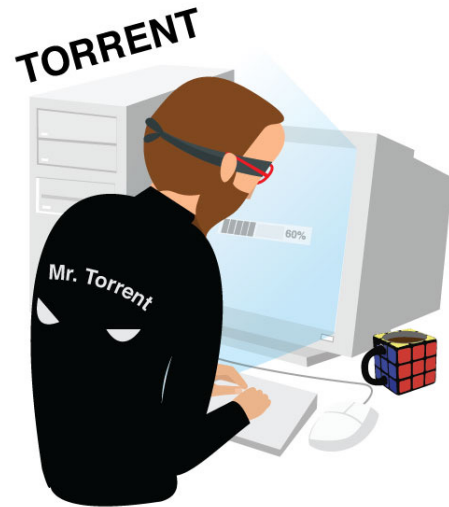
<https://www.cmu.edu/entertainment-analytics/index.html>



# CONSUMER PIRACY: 20 YEARS OF EVOLUTION



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# CONSUMER PIRACY: 20 YEARS OF EVOLUTION





TV / UK MOVIES /BY NUMBER / 15:32

1204	▶ 🔊	UK: SKY CINEMA PREMIERE FHD
1205		UK: SKY CINEMA PREMIERE HD
1206		UK: Sky Cinema Premiere HD
1207	🔊	UK: SKY CINEMA HITS FHD
1208		UK: SKY CINEMA HITS HD
1209		UK: Sky Cinema Hits
1210	🔊	UK: SKY CINEMA GREATS FHD
1211		UK: SKY CINEMA GREATS HD
1212		UK: Sky Cinema Greats
1213	🔊	UK: SKY CINEMA DISNEY FHD
1214		UK: SKY CINEMA DISNEY HD
1215		UK: Sky Cinema Disney
1216	🔊	UK: SKY CINEMA FAMILY FHD
1217		UK: SKY CINEMA FAMILY HD

▶ TV GUIDE

14:00 - Deadpool 2  
16:15 - Apostasy  
18:10 - Backstabbing for Beginners  
20:10 - Patrick

VIEW SORT FAVORITE MOVE

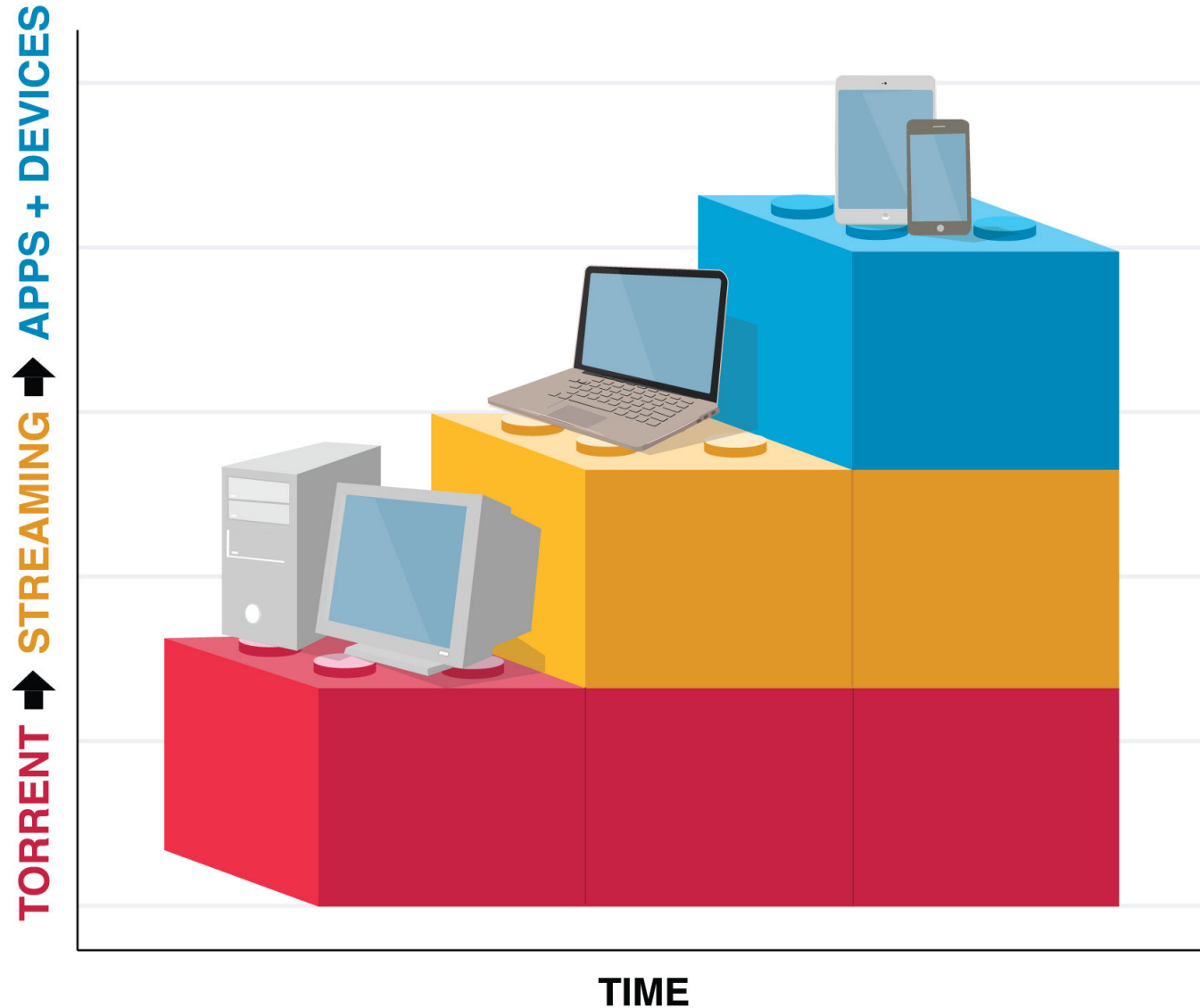
Deadpool 2 – Marvel/Fox

Accessed on March 15  
2019 through HappyIPTV  
on a MAG250



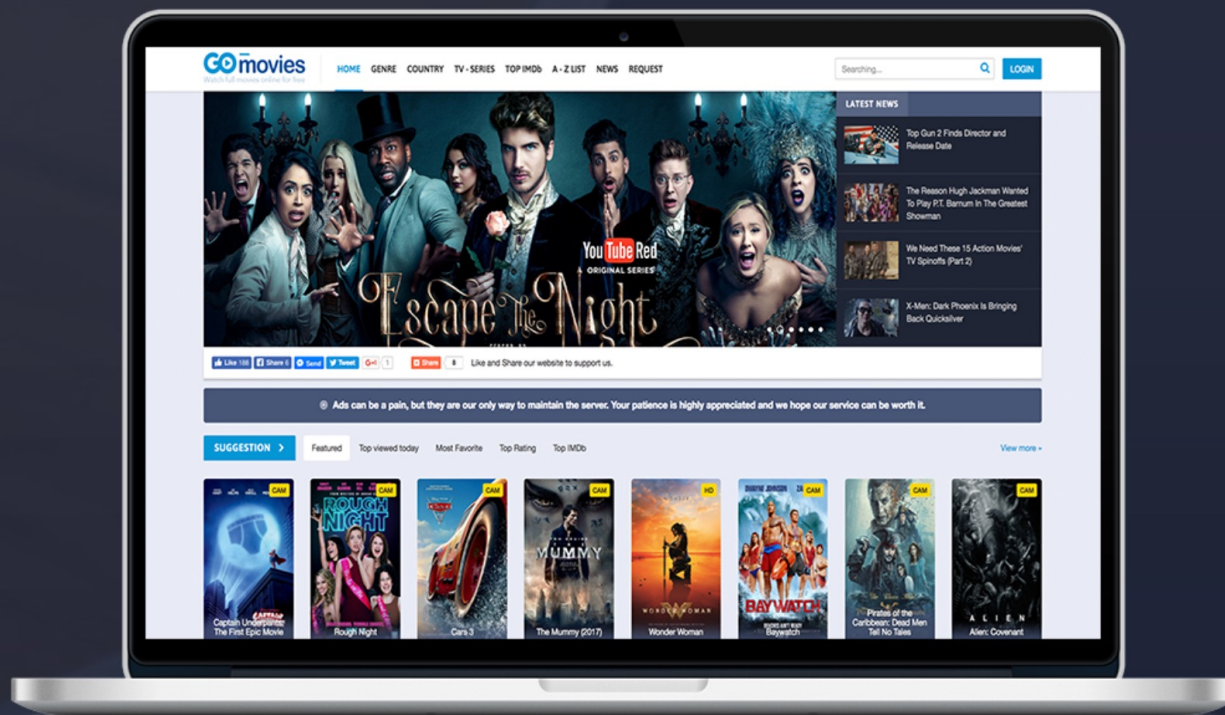


# CONSUMER PIRACY: 20 YEARS OF EVOLUTION





Start your own streaming website now!



Automatically Update Content with the Latest Movies, TV Shows and Episodes.

## MOVIE + TV SHOWS

Everything you Need fully Automated

One Template

Automated [Movies & TV Shows](#)

Automated Latest Episodes

Ready 14,000+ [Movies](#)

Ready 1,500 Shows

Ready 60,000+ Episodes

Free Installation

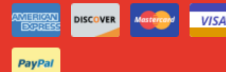
Lifetime Support

\$499 One time

FOR LIFE

CONTACT VIA  
SKYPE [wpstreamcms](#)  
TO BUY

XMR/BITCOIN



Consumer-facing sites are becoming so common that services now exist where even someone like me – someone with no technical expertise -- can pay someone a nominal fee (here \$499) to set one up for you. We now block these sites by the dozens, in Italy and dozens of other countries around the world.



## GLOBAL VIDEO STREAMING TRAFFIC SHARE

- 1 HTTP MEDIA STREAM  
23.8% ↓
- 2 NETFLIX  
23.1% ↓
- 3 YOUTUBE  
12.7% ↓
- 4 OPERATOR IPTV  
10.0% ↓
- 5 FACEBOOK VIDEO  
5.0% ↓
- 6 AMAZON PRIME  
4.3% ↓
- 7 TWITCH  
4.2% ↓
- 8 TIK TOK  
3.4% ↓
- 9 OPENLOAD  
2.4% ↓
- 10 DAILY MOTION  
1.3% ↓



# The Global Internet Phenomena Report

September 2019

The surprise entrant from last year, Openload, is still on this list, and is actually a higher percentage of overall video traffic than last year. This is the most popular Kodi provider that we see worldwide, and a result of the growing popularity of IPTV piracy.





# HOW THINGS ARE SUPPOSED TO WORK.... (per EU law)

- Rights holder discovers a commercial-scale online piracy service (streaming site, cyberlocker, app, etc).
- This service is required by law to self-disclose operator details, just like any other provider of an information society service. (Article 5 of the E-Commerce Directive)
- In the event of no self-disclosure, rights holder can check the WHOIS database.
- In the event of no valid WHOIS data, rights holder can go to court and obtain an injunction directing the hosting provider or other service provider to disclose the operator details. (Article 8 of the Enforcement Directive)
- With this information in hand, the rights holder can pursue civil or criminal action against the operator of the unauthorized service.
- In the meantime, rights holder has the option to obtain no-fault injunctive relief to access, and can use notice-and-action to address individual items of infringing content.



# HOW THINGS ACTUALLY WORK...

- Lawbreakers never self-disclose as the law requires, and they face no penalty for failing to do so (Article 5 ECD has no enforcement mechanism).
- The WHOIS database is no longer a useful resource in the vast majority of cases
  - In 2010, the majority (60%) of sites provided contact information in their WHOIS records.
  - In 2020, only 28% of sites do so – a massive drop in the transparency of the Internet.
  - Most of this drop in transparency occurred in the 3 months immediately after GDPR, likely due to a misinterpretation of GDPR by ICANN.
- Obtaining an injunction to disclose operator details only works if the service provider collects valid customer information; many do not. The Openload case study bears this out.
- It is impossible to bring effective civil or criminal action against operators of illegal services if those operators are allowed to conceal their identity.
- Siteblocking has proven highly effective as an alternative measure, but it is not available in every jurisdiction, and does not achieve certain systemic objectives (e.g., compensation, damages, deterrence).
- Notice and action is ineffective and is only usable for very short-term disruption.



# WHERE DOES THE SYTEM BREAK DOWN?

- Lack of due diligence by business infrastructure providers is the core practical challenge of modern online copyright enforcement.





# Openload host admitted it **did not know** the identity of a customer from whom it has received millions of euros.

Ensuite, et concernant vos demandes :

\* Les données communiquées par notre client sont purement déclaratives. [redacted] ne détient donc aucun élément permettant d'en vérifier l'authenticité.

\* S'agissant des autres personnes mentionnées dans les logs, vous l'aurez bien compris, il s'agit de salariés [redacted].

\* S'agissant des paiements, nous ne sommes pas en mesure de vous en fournir l'intégralité dès lors qu'ils portent sur plusieurs milliers de factures dont l'extraction serait trop lourde pour nos infrastructures.

Vous trouverez cependant l'intégralité des factures émises pour chacun de ces clients en pièce jointe.

\* Pour ce qui est des coordonnées bancaires, elles sont tronquées volontairement en application des dispositions légales applicables et [redacted] ne dispose pas de cette information.

\* Lorsque nous n'avons pas indiqué les références de paiement, c'est que nous n'en disposons pas.

Vous remerciant pour votre compréhension,

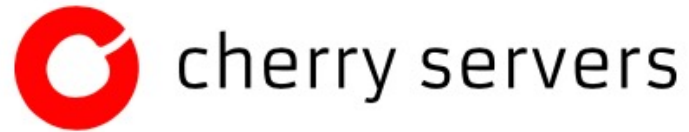
Salutations distinguées,

[redacted]  
Juriste éthique et conformité

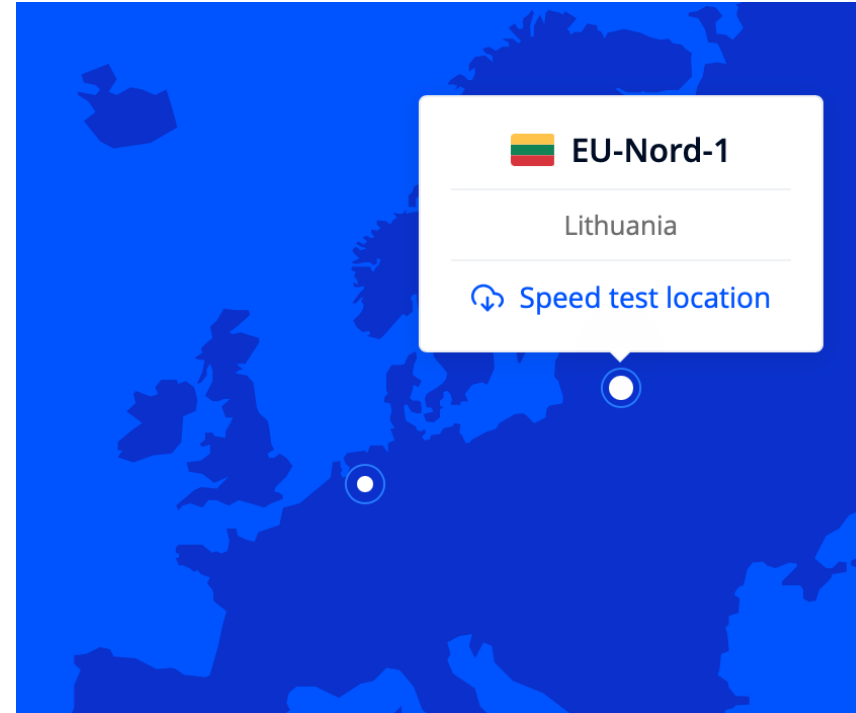
département juridique [redacted]

*"The data communicated by our client are purely declarative. [Host] therefore does not possess any element, verification of authenticity."*





**Date:** 2021-05-20



The Cherry servers underlines the fact that the Cherry servers provides all of the data that is available to Cherry servers and is/was at its disposal. Any other information specified in the Order, such as the first and last name(s), the declared postal information, telephone or fax numbers, were not provided of registration and are not available to the Cherry servers.



Alle Angaben wurden vom Kunden gemacht und sind nicht auf Richtigkeit von uns überprüft.

*“All information was provided by the customer and has not been checked for accuracy by us.”*







You state in your 14 April 2021 reply that the address forwarded by Adcash to you on 13 April 2021 is an incorrect German postal address. If indeed so, thank you for bringing this matter to Adcash's attention.

However, this is the only postal address relating to this client that Adcash has. Adcash does not have the obligation to additionally verify any information for your client. Adcash has acted in good faith and disclosed all available information it can in accordance with § 101(2) UrhG.

We hope this explanation settles the issue.



# WHERE DOES THE SYSTEM BREAK DOWN?

- Lack of due diligence by business infrastructure providers is the core practical challenge of modern online copyright enforcement.
- Illegal websites rely on multiple mainstream service providers such as hosting, payment, advertising, proxy providers (Cloudflare) and domain name providers
- These intermediaries are making millions from fraudulent business customers who give unverified data.
- **This epidemic of fraudulent operators makes it exceedingly difficult to bring civil or criminal actions to stop online harms.**
- It also renders useless the E-Commerce regulation requiring all online businesses to provide their name, physical address, and contact details.
- **This is not just a piracy issue:** All illegal sites hide their identity, including scams, r illegal gambling, child exploitation...





## REGIONAL COOPERATION: MENA BROADCAST SATELLITE ANTI-PIRACY COALITION

- In March 2014, leading broadcasters, satellite operators and content providers join forces to tackle all forms of piracy through the MENA Broadcast Satellite Anti-Piracy Coalition
- As of 2019:
  - 245 infringing channels have been taken off the air
  - Regular engagement with remaining Arabic and Western channels ensures they do not infringe copyright
  - Coalition's overall success rate 98% with pirate channels
- Building on this success, the Coalition started tackling IPTV piracy.



# GLOBAL COOPERATION: ALLIANCE FOR CREATIVITY AND ENTERTAINMENT



 ABOUT US

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 REPORT PIRACY

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[www.alliance4creativity.org](http://www.alliance4creativity.org)

**ACE WORKS TO COMBAT DIGITAL PIRACY &  
PROTECT THE CREATIVE  
MARKETPLACE**

*The Alliance for Creativity and Entertainment is the world's leading content protection coalition dedicated to combatting the illegal acts of digital piracy that harm the thriving digital ecosystem.*





## Elements of Effective Enforcement



Legal  
offer

Education

Enforcement





“Content is king”

Gates, 1996

*“Something wicked  
this way comes...”*

Shakespeare, 1606