

# MarkScan

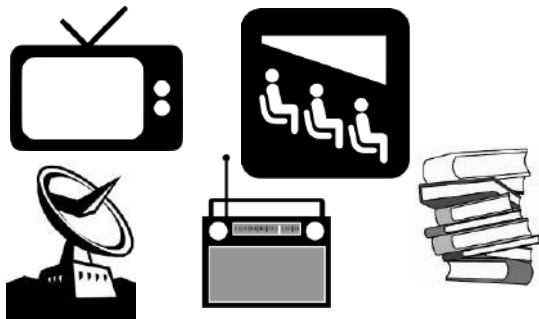
India | New Delhi



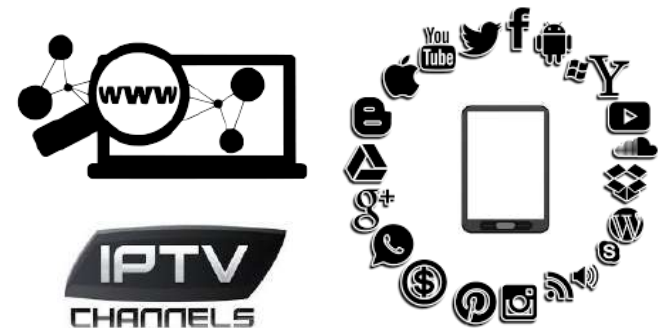
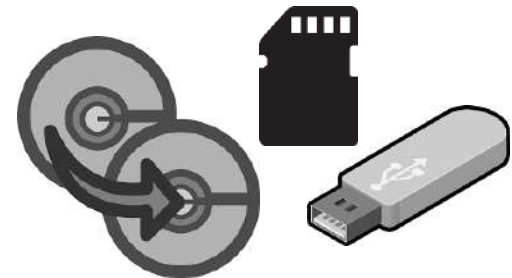
## Industry Committee for Entertainment *Digital Anti Piracy – Comprehensive Framework*

# With the emergence of new media, the pirates have spawned from piracy in physical formats to stealing content digitally

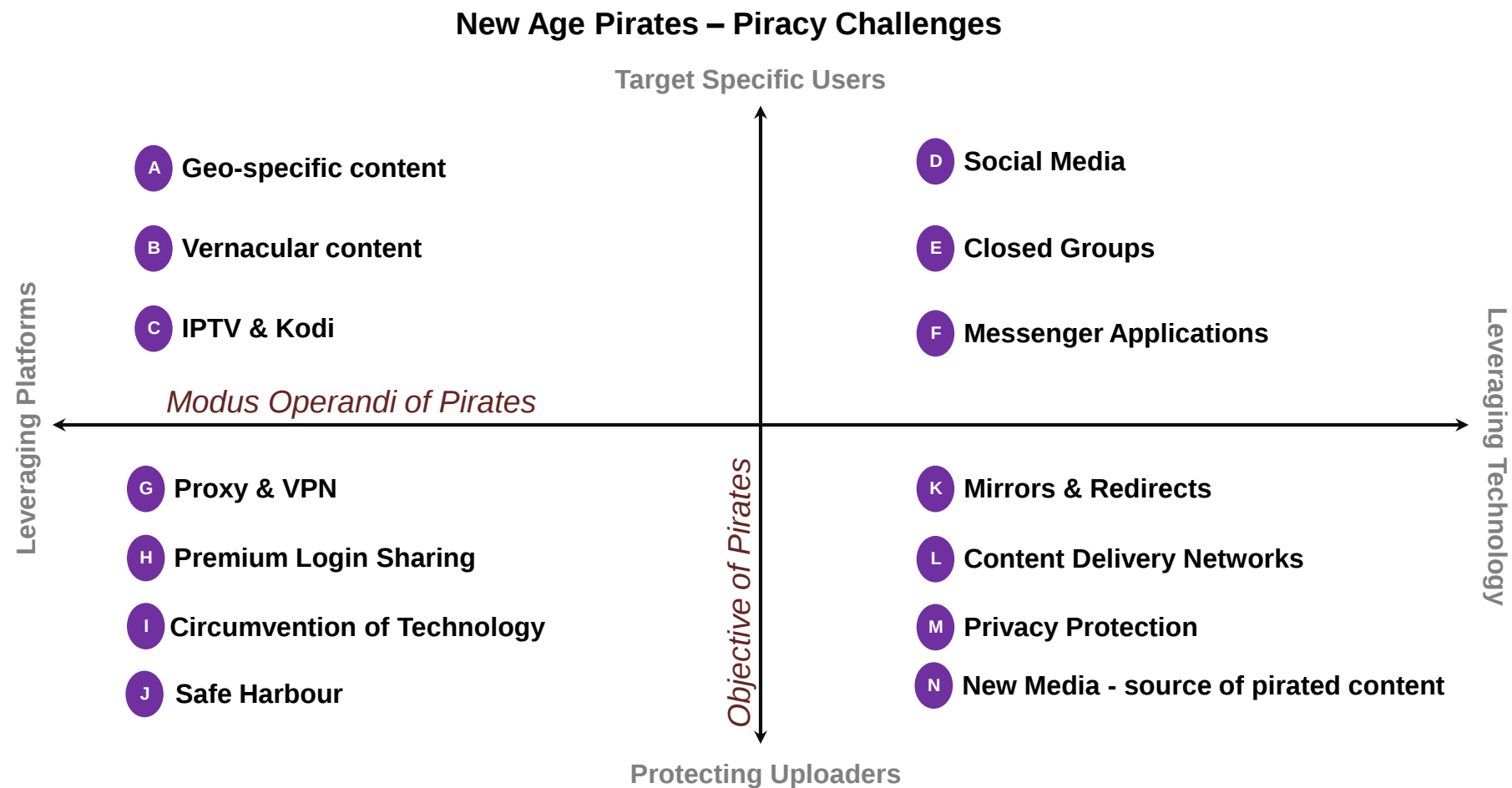
## Evolution of New Media



## Evolution of New Age Pirates



# New age pirates leverage technology & platforms to target specific users and to protect & safeguard uploaders of stolen content



Note: These challenges focuses on new age piracy issues, relevant for New Media.

# This is in addition to traditional challenges of digital content piracy...

## On-going Challenges

### Repeat offenders

- Over 15% of content removed gets re-uploaded again
  - Repeat offenders include individual uploaders as well as repeat uploading Internet websites
  - This allows the offenders to circumvent penalties while displaying pirate content at key time slots
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### Non-compliant Websites

- These websites are the hardcore pirates who refuse to pay any attention to removal notifications
  - While taking anti-piracy disruption measure, these websites generally moves to non-compliant intermediaries based out in rogue geographies (e.g. Switzerland, Panama)
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### Turn Around Time

- Key properties uploaded from OTT before TV telecast
- Google infringing search results removal is slow on weekends, ~10% of links pending for 48hrs
- Longer YouTube TAT on weekends, few notices remain pending ~ 24 hours.
- No standard turnaround time for mobile apps removal (avg. 24hrs to 2 weeks)

# Govt. led & supported initiatives, voluntary mechanisms, research, and, tactical measures

| Avenues & (sample) Initiative |                      | Description & Key Objective                                                                                                                                        |                                                                                                                                                                                                                         | Why Industry                                                                                                                                                                                      |
|-------------------------------|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Govt. Led                     | MCDCU                | <div></div> <ul style="list-style-type: none"> <li>Leveraging Police criminal enforcement mechanism</li> <li>Suspend non-compliant websites</li> </ul>             | <div></div>                                                                                                                                                                                                             | <ul style="list-style-type: none"> <li>Mechanism access for Industry new media content owners via tie-up of Association with Police</li> </ul>                                                    |
|                               | Administrative Block | <div></div> <ul style="list-style-type: none"> <li>Administrative (non legal) process for blocking websites in India</li> <li>Block top pirate websites</li> </ul> | <div></div>                                                                                                                                                                                                             | <ul style="list-style-type: none"> <li>Industry/Association will have to coordinate with government, Industry most suitable with widest representation of internet ecosystem</li> </ul>           |
| Voluntary Mechanism           |                      | Revenue Chain                                                                                                                                                      | <div></div> <ul style="list-style-type: none"> <li>Restricting fund flow to pirate websites</li> <li>Compromise key driver of piracy</li> </ul>                                                                         | <div></div> <ul style="list-style-type: none"> <li>Industry members span across revenue chain</li> <li>Benefits media agencies (ad fraud etc) as well as brand owners (eg brand image)</li> </ul> |
| Research                      |                      | India specific research & data to support Policy                                                                                                                   | <div></div> <ul style="list-style-type: none"> <li>Address significant gaps in India specific data re digital piracy</li> <li>Develop data &amp; analysis which are key drivers for government policy</li> </ul>        | <div></div> <ul style="list-style-type: none"> <li>India specific research lacking significantly in digital domains, most useful for Industry members</li> </ul>                                  |
| Tactical Measures             |                      | Anti Piracy Blue Book                                                                                                                                              | <div></div> <ul style="list-style-type: none"> <li>Blue book with best practices for digital anti piracy exercise by content owners</li> <li>Enhance knowledge of members and develop base for joint actions</li> </ul> | <div></div> <ul style="list-style-type: none"> <li>Industry members span across genres of content which have common threats but do not necessarily cooperate</li> </ul>                           |

# Administrative block mechanisms vary significantly by country with varying nature of driving bodies and multiple actions undertaken

| Country (Name of body)                                                                                                                                                                                                     | Nature of Body                                  | Anti-Piracy Actions                                                                                                                     | Involvement of Court                                                          | ISP Compliance                                          | Industry Participation                                                | Govt. Involvement                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|---------------------------------------------------------|-----------------------------------------------------------------------|------------------------------------------------------------------|
| <div>  <b>Rettighedsalliancen</b><br/> <i>Rights Alliance</i><br/>                     (e.g. IMAI)                 </div>                  | <div> <i>Rightsholders Association</i> </div>   | <div> <ul style="list-style-type: none"> <li>• <b>Block</b></li> <li>• <b>Suspend</b></li> <li>• <b>Revenue Chain</b></li> </ul> </div> | <div>                     Executes Court Order                 </div>         | <div>                     MoU                 </div>    | <div>                     Industry Owned                 </div>       | <div>                     Govt. supported                 </div> |
| <div>  <b>AGCOM</b><br/> <i>Autorità per le Garanzie nelle Comunicazioni</i><br/>                     (e.g. TRAI)                 </div>   | <div> <i>Regulator (Govt.)</i> </div>           | <div> <ul style="list-style-type: none"> <li>• <b>Block</b></li> <li>• <b>Suspend</b></li> </ul> </div>                                 | <div>                     Appeal in Court for disputes                 </div> | <div>                     By Law                 </div> | <div>                     Industry Driven                 </div>      | <div>                     Govt. supported                 </div> |
| <div>  <b>KCOPA</b><br/> <i>Korea Copyright Protection Agency</i><br/>                     (e.g. DPIIT?)                 </div>            | <div> <i>Govt. Department</i> </div>            | <div> <ul style="list-style-type: none"> <li>• <b>Block</b></li> </ul> </div>                                                           | <div>                     NA                 </div>                           | <div>                     By Law                 </div> | <div>                     Industry Involvement                 </div> | <div>                     Govt. led                 </div>       |
| <div>  <b>IGAC</b><br/> <i>Inspecção Geral Das Actividades Culturais</i><br/>                     (e.g. CBFC)                 </div>      | <div> <i>Media Rating Agency (Govt.)</i> </div> | <div> <ul style="list-style-type: none"> <li>• <b>Block</b></li> <li>• <b>Revenue Chain</b></li> </ul> </div>                           | <div>                     NA                 </div>                           | <div>                     MoU                 </div>    | <div>                     Industry Involvement                 </div> | <div>                     Govt. supported                 </div> |
| <div>  <b>ACMA</b><br/> <i>Australian Communications and Media Authority</i><br/>                     (e.g. TRAI)                 </div> | <div> <i>Regulator (Govt.)</i> </div>           | <div> <ul style="list-style-type: none"> <li>• <b>Block</b></li> </ul> </div>                                                           | <div>                     NA                 </div>                           | <div>                     By Law                 </div> | <div>                     Industry Owned                 </div>       | <div>                     Govt. supported                 </div> |

Note: Australia is the only country where rights owner can now directly notify to ISPs to block websites. (Ref. Section 115a of Australia’s Copyright Act)

# Mechanism suitable for India has to be thought out in view of current context and minimum requirements for being effective

## Latest Context

- MCDCU @ MeitY
- Kerala Police Cyber Dome
- TIPCU
- CIPAM (DPIIT)
  - eCommerce (content) policy
  - Views
- INTA-CIPAM Workshop
- Ombudsman

## Minimum Requirements

- Government Involvement
  - Owned
  - Involved
- Rights Owner Involvement
  - Owned
  - Driven
- Mandate for ISP Compliance
  - By law
  - By MoU (voluntary)

## Parameters – Suitable for India

- Nature of Body.....
- Anti-Piracy Actions.....
- Involvement of Court.....
- ISP Compliance.....
- Industry Participation.....
- Govt. Involvement.....



**For  
discussion**

Note: MCDCU had reached out to MeitY under section 69A of IT Act to block websites however the law states that websites can be blocked on 5 conditions – 1. Friendly relations with Foreign States 2. Defense of the country 3. Security of the State 4. Sovereignty and Integrity of Country 5. Public Order

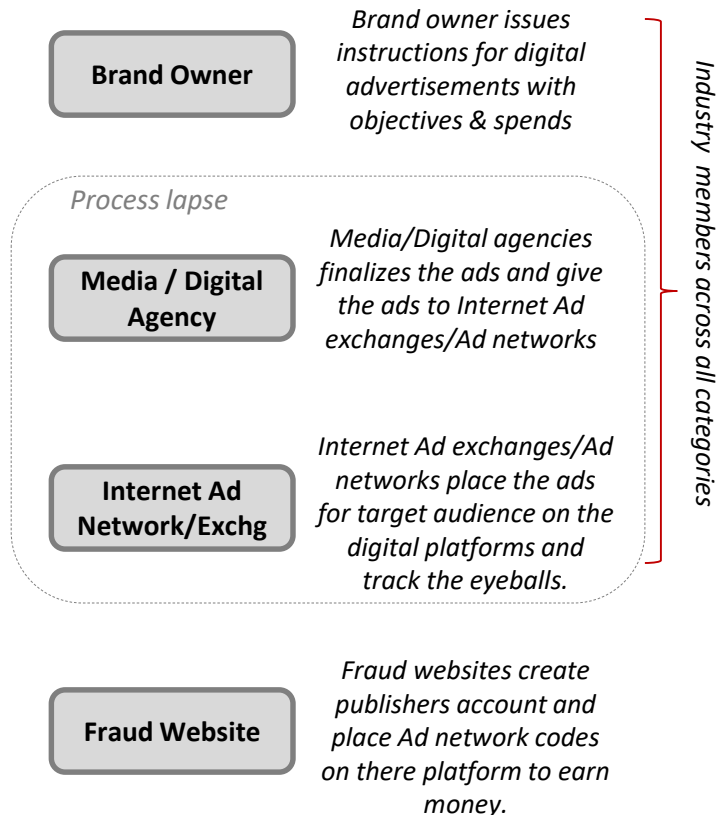
# Most effective revenue chain mechanisms are voluntary in nature, Industry has members across chain, all of whom will benefit

## Trustworthy Accountability Group – Case Study



- Trustworthy Accountability Group (TAG) is a US based cross-industry voluntary arrangement on accountability program for the digital ad industry.
- The objective of group is to help advertisers and agencies avoid damage to their brands from ad placement on pirate platforms
- This voluntary initiative helps marketers identify pirate sites or selling counterfeit goods, and remove those sites from their advertising distribution chain.

## Piracy Revenue Chain Elements



## Benefits to Members

- **Eliminate fraudulent digital advertising traffic**
- **Combat malware & protect privacy**
- **Fight ad-supported Internet piracy**
- **Promote brand safety through greater transparency**

Note1: Research commissioned by TAG and undertaken by Ernst & Young LLP in 2017 showed the impact of industry efforts to reduce ad-supported content piracy.

Note2: UKIPO, BPI, MPA & Alliance of IP has a voluntary code of practice with Google, Bing & Yahoo where they demote the ranking of pirate websites in search engines

Note3: Six strike system of US, and Hadopi law (France) system warned users downloading pirate content & impose fines or revoke the Internet.

# Industry can produce a *Blue Book* with best practices for digital anti piracy exercise by its rightsholder members

## Digital Protection - Key Action Areas

## Sample Best Practices

### Content Protection Exercise

- *Focus on emerging digital platforms increasingly used for piracy - such as Telegram, 3<sup>rd</sup> party mobile app stores & DVB boxes*
- *Develop ROI model for content protection, key KPI should be cost per infringement*
- *Tactical content protection output should be leveraged in joint strategic initiatives*

### Partnership & Relationships

- *Leverage reference files tool across platforms to monetise & TAT*
- *Content teams of major platforms are more than happy to build relationships with content owners*

### Legal (John Doe)

- *List of websites to be prepared by pareto analysis of high traffic websites*
- *Validate ISP block by circle to check for inconsistent compliance*
- *Pursue website level dynamic order with scope to add websites as they appear*

Note: The follow-up with ISPs needs to be persistent for implementation of John doe order as compliance from all the ISPs is still an issue.

# Industry can pursue these initiatives in varying roles, MarkScan will be able to help with different capabilities as expert partner

| Avenue & Initiatives                                                             | Industry Role              | Execution                                                                          | Expected Outcome                                                                                                                 |
|----------------------------------------------------------------------------------|----------------------------|------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| <b>MCDCU</b><br><i>(Government Led)</i>                                          | <b>Participate</b>         | Content owners<br>MCDCU Team                                                       | <ul style="list-style-type: none"> <li><i>Suspend non-compliant websites</i></li> </ul>                                          |
| <b>Administrative Block</b><br><i>(Government Supported)</i>                     | <b>Lead</b>                | Govt. Placeholder<br>Industry (Lead)<br>Other strategic partners<br>Expert Partner | <ul style="list-style-type: none"> <li><i>Block top pirate websites in India</i></li> </ul>                                      |
| <b>Revenue Chain</b><br><i>(Voluntary)</i>                                       | <b>Build &amp; Operate</b> | Industry Placeholder & Lead<br>Other strategic partners<br>Expert Partner          | <ul style="list-style-type: none"> <li><i>Compromise key driver of piracy</i></li> </ul>                                         |
| <b>India specific research &amp; data to support Policy</b><br><i>(Research)</i> | <b>Partner</b>             | Sponsoring Agency<br>Expert Partner<br>Industry                                    | <ul style="list-style-type: none"> <li><i>Develop data &amp; analysis which are key drivers for government policy</i></li> </ul> |
| <b>Anti Piracy Blue Book</b><br><i>(Tactical)</i>                                | <b>In-house initiative</b> | Industry<br>Expert Partner                                                         | <ul style="list-style-type: none"> <li><i>Enhance knowledge of members and develop base for joint actions</i></li> </ul>         |