THE INDIAN IMI MUSIC INDUSTRY
Formerly IPI Estd. 1936

THE INDIAN MUSIC INDUSTRY

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To,

17/12/2021

Dr Shashi Tharoor,

Chairperson,

Department Related Standing Committee on Information Technology

Subject - Recommendations on the subject of "Review of cyber security scenario in India" in reference to Notification No. 3210 dated 21st October 2021 under Bulletin No. II of Lok Sabha.

Respected sir,

With reference to Notification no. 3210 issued under Bulletin-Part II of the Lok Sabha, we the Indian Music Industry (IMI) are writing this representation. The Indian Music Industry (IMI) is the apex body that represents the business and trade interests of the recorded music industry in India. IMI is registered under the West Bengal Societies Registration Act, 1961.

The list of subject-matters for examination by the Standing Committee as laid out in the aforementioned notification includes various significant areas, one of them being the "Review of cyber security scenario in India."

In relation to the abovementioned subject, we would like to draw your attention and the attention of the whole committee to how Music and Entertainment related content is used as a "honey trap" to lure online consumers.

Given that songs are the easiest to download and don't require much data and storage space, music piracy is the highest amongst all the digital entertainment offerings. In fact, according to a recent IFPI report, 68% of internet users surveyed in India admitted to accessing musical content through pirated means in the year 2021, reiterating the fact that music piracy remains rampant in the country.[1]

[1] https://www.ifpi.org/wp-content/uploads/2021/10/IFPI-Engaging-with-Music-report.pdf.

Music is highly popular, and one does not require high speed internet or sophisticated processes to make illegally downloaded music available online. This makes illegal music content the best bait for pirate platforms such as stream-ripping sites, BitTorrent sites and Cyberlockers.

Such platforms attract users with the prospect of easily available pirated music content, and surreptitiously expose online users to malicious software, effectively becoming vehicles to perpetrate cybercrime.

The business model of these pirate websites itself thrives on users freely downloading unauthorized copyright protected music content without the rights holder's permission. This unauthorized music content is then used to bait people into clicking on links that download bundled malware into their computers or ask the user for sensitive personal details in the guise of payment gateways or as a requirement to make a free account.

Malware and potentially unwanted programs (PUPs) are often unwittingly installed by users during confusing download processes put in place by these pirate websites, leaving them vulnerable to scams.[2] According to a report by the Digital Citizens Alliance, a user is 28 times more likely to get malware from content piracy websites.[3]

Because these pirate sites disseminate content for free, they rely on other sources of income to keep their websites running such as phishing scams, malware and adware. Cybercriminals who create and operate malware essentially pay piracy websites and apps to deliver malware to those who visit the websites or use the apps.[4] They (the cybercriminals) then benefit through these services by selling the stolen personal and financial information, collecting ransoms, renting botnets, and selling cyberattack capabilities.[5]

Apart from actively participating in and abetting cybercrime, such pirate services also have severe adverse economic repercussions on Indian industries, with the creative sector and Intellectual Property based fields being amongst the worst affected. For example, the Indian recorded music industry itself suffers losses to the tune of ₹ 300 crore annually due to digital piracy.[6] Losses suffered by the Recorded Music Industry have a direct impact on the revenues of artists and other stakeholders. Piracy adversely affects the economy and further causes job losses.

The risk of cyber security arising from such services can be efficiently tackled by maintaining high standards of accountability on interactive digital platforms. The safe harbour regime in India under the IT Act, 2000 provides immunity to an intermediary provided that the activity undertaken by such intermediary is technical, automatic and passive in nature. However, the unclear obligations

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[2] Stream-ripping: Its role in the UK music piracy landscape three years on, September 2020 https://www.musicbusinessworldwide.com/files/2020/09/Streamripping.pdf.

[3] https://www.digitalcitizensalliance.org/clientuploads/directory/Reports/digitalbait.pdf.

[4] 2019 Review of Notorious Markets for Counterfeiting and Piracy

[5] Ibid

[6] A case for free market economics in the Indian Recorded Music Industry

put on the intermediaries and the misuse of safe harbour provisions has led to the proliferation of illegitimate services such as stream ripping sites, cyberlockers, etc. This is further exacerbated by the anonymous nature of digital music piracy which makes it difficult for IP owners to seek remedies against interactive active platforms hosting unauthorised content.

Therefore, we urge the Committee to scrutinize the menace of cyber security caused due to the use of illegal services providing access to unauthorised music and other entertainment material. Further, we humbly request the Committee to take into consideration following suggestions to be recommended as part of the review:

1. Clarification that safe harbour protection is only applicable to the technical, automatic and passive activities of truly neutral platforms where they fulfil sufficient conditions as responsible platforms, including those listed in this section. Accordingly, it should be made clear that such safe harbours are not applicable to interactive digital platforms such as stream ripping sites, cyberlockers, apps offering pirated content etc.

2. Introduction of effective and stricter due diligence obligations in order to place higher accountability on interactive digital services making available copyrighted content.

3. Provision of a mechanism for expeditious site blocking with a focus on administrative site blocking measures to address the issues of stream ripping, cyberlockers, peer to peer file sharing, etc. to reduce piracy.

4. Provision for a time effective/robust notice and action mechanism mandating digital platforms to take down infringing content on receiving notice from rights-holders and prevent such infringing content from re-appearing on their platforms.

5. Placing of an obligation on digital platforms to implement an effective "repeat infringer" policy and "Know Your Business Customer" policy to become eligible for safe-harbour protection.

Best regards,

THE INDIAN MUSIC INDUSTRY MUMBAI

Blaise Fernandes
President & CEO
The Indian Music Industry