

The UK High Court issued a court order requiring major UK Internet Service Providers to cease access to a number of free video streaming services in 2016. Why did the court make this ruling, and what are its implications?

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On May 5th 2016 the UK High Court made a decision to force major ISPs in the country to block the websites Putlocker and Couchtuner.^{[1][2]} The reason behind this ruling is the fact that the popular movie and TV series streaming platforms were breaching copyright by offering content that did not belong to them for free.^{[1][3]} Even though there was an instant outcry on social media raised by the users of the censored sites in their support, such opinions provided no insight on the legal and ethical depth of the issue but instead highlighted a disappointment due to the lack of personal benefit.^{[5][6][7]} While it is necessary that intellectual property (IP) right holders are protected by the law^[8] and the measures ordered by the court indicate some progress, it is hard to declare whether or not this step was in the right direction. This is due to the existence of numerous ambiguities that stem from the ongoing unresolved discussion about how IP rights should be enforced in the digital age.^{[9][10][11][12]} The fact that the internet providers must cover the maintenance costs of the blocks^[13], even though they were not proven to have intentionally cooperated with, supported or facilitated the aims of the illegal practice websites accumulates even more uncertainty to whether this ruling was just and suitable. The current IP laws contribute to the vagueness of the situation as they vary from country to country^[14] and often fall short in providing the scope of jurisdiction required by the complexity of the digital world nowadays.^{[9][10][11][12]} As a result, judges often find themselves in the powerful position to make decisions that would later apply as extensions to the existing law.^[15]

The mass user is arguably the side that is most affected by all of this controversy, however it is also the side that is in the general case least competent to provide an adequate opinion or suggest a suitable solution. The proof of this statement is logically reached by keeping in mind that these users come from various backgrounds, while all other sides specialize and have a background related to the topic of the issue. Messages in the comment sections of the sites reporting this piece of news or statuses on the social networking platform Twitter offer mostly exclamations of loss of personal gain or fear of such and provide trivial or shallow discussion, if any.^{[5][6][7]} One recurring opposition to the court decision expresses a concern of mass censorship based on the roots of the website blocking process, when the government initially promised that only paedophilia sites will be targeted.^[16] The shift of focus leads people to believe that eventually every inconvenient source might suffer from such countermeasures. Despite these beliefs no proof exists of similar intentions to back up this conspiracy and it is easy to see the disparity between unlawful digital piracy and protected by the law of freedom of speech expression of ideas.

Big corporations, such as the MPAA which are the ones that filed the lawsuit and ISPs which were its target, all have a big financial interest in the situation. Copyright holders lose billions to piracy each year^[17] and internet providers as BskyB were drawn into the dispute when they were ordered to

pay what some report are five figure sums per blocked website in maintenance costs^[13]. Some ISPs which are still in a legal fight, have argued that a removal of the source of the sites would be much more productive than blocking.^[18] While it is not clear whether this is true or not, it is certainly not easy or possible to achieve as most piracy websites are hosted in countries with weak or no IP rights laws which are in all cases not under local jurisdiction.^[19] With such big profits and losses at stake, it is reasonable that each of these conglomerates will protect its own interests and insist on whatever they find most suitable for their own needs and not for the global good. It is also important to put focus on how the ISPs were sanctioned despite their lack of involvement with the law breaching websites.^[20] The implication of third parties, previously indifferent to the problem, easily leads to the conclusion that the court order was improper.

Legally, it is the job of the legislators to decide what actions must be taken in such situations^[21] as the laws are expected to provide a fitting tiebreaker to all human and business interactions. It is in this case inappropriate, however, to hold such expectations as the global communities involved are yet to reach a consensus on the issue.^{[9][10][11][12]} To elaborate, representatives of the legal, computing and entertainment worlds have never come together in a discussion that would lead to a uniform decision on what would be the most just action in similar cases that would satisfy all involved sides. Even though in the UK most of the European Union laws on piracy are valid, some have not been fully accepted as national law.^[22] Furthermore, the prospective withdrawal from the EU leaves even more legal question marks and complicates the situation more.^[22] As a result of all of the ambiguity, some companies have already managed to get court rulings in their favour that were not based on any existing law. This was the case with Cartier International AG who in 2014 managed to obtain a court order for websites selling counterfeit product with their trademark logo to be blocked. At the time, however the CDPA only encompassed copyright breaching.^{[13][18][20]}

Since the CDPA has not been extended after that process, the fore-mentioned ruling which was confirmed by an Appeal Court in 2016 can now according to some specialists serve as basis for all brands to seek the blocking of websites infringing their trademarks.^[15] In a perhaps exaggerated estimation of the damage this fact is capable of, one can consider that a block on websites such as EBay and Amazon is entirely possible. This is true because these digital marketplaces display products of various sellers of unconfirmed origins, some of which are illegal replicas. The judges that must make such decisions in similar cases have no other choice but to base the outcome on their interpretation of the existing law, which as discussed provides insufficient insight on digital piracy issues. One then comes to the conclusion that the interests of all parties that are directly involved in the situation are to be protected by the verdict of a person that has an inadequate set of information to build their judgement on. The trend of blocking started as early as 2008 when IWF's list of websites with child abuse or child pornography was accepted by most ISPs in the UK.^[24] In 2012 things went in a different direction when the BPI won a copyright infringement case against the Pirate Bay which led to its national restriction.^[25] Considering the discussion of more recent facts provided by the essay, an anticipation of a future full-blown censorship in contrast to the current attempt to ban illegal content cannot be deemed ludicrous. Currently, more than a 100 website have already been blocked in the UK as a result of copyright or trademark infringement cases.^[2]

To sum up, it is impossible to discuss the correctness of the court's decision in the national ban on the two streaming websites case in 2016 as the causing issue and all similar ones have been surrounded by a legal and ethical vagueness. It is easy to say, however, that there have been

consequences to a multiple of sides which have not been responsible for the breaking of the law that has occurred. There have also been no repercussions for the actual perpetrators which can battle the loss of the traffic by a simple change of their domain name. I believe the only solution to this problem would come out of a conference or numerous big discussions that would feature representatives of all involved positions. Furthermore, all such discussion would need to be international as this controversy is far from local and all attempts to battle it at a national level would come as an underestimation and are doomed to end in failure.

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