May \_\_, 2019

To

The Superintendent of Police

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Sub: **Complaint of criminal breach of trust punishable under the Penal Code and infringement of broadcasting reproduction right punishable under Copyright Act by M/s. Kanhan Cable Network, Town Damua, District Chhindwara, Madhya Pradesh 480555.**

Sir,

I, \_\_\_\_\_\_\_\_\_\_ S/o \_\_\_\_\_\_, adult, having office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby give my complaint as under:

I am working as a professional anti-piracy consultant at C/o \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Our agency has been engaged by the Constituted Attorneys of Star India Private Limited, having its registered office at ‘Star House’, Urmi Estate, 95 Ganpatrao Kadam Marg, Lower Parel (West), Mumbai 400 013, to do preliminary recording of transmission of signals of Star India Private Limited over its cable television network by M/s Kanhan Cable Network, and file a complaint in accordance with law with the police authorities if the Cable Operator is found to committing any criminal offence.

Star India Private Limited is engaged in the business of broadcasting satellite television channels of various categories such as general entertainment, sports, infotainment, movies etc. in India and various other countries. The company owns, manages, controls and broadcasts several pay channels such as “Star Gold”, “Star Plus”, “Star Bharat”, “Star Plus HD”, “Star Gold HD”, “Star Movies HD”, “Star Sports 1”, “Star Sports 1 HD”, etc. (“Star Pay Channels”) in India. The company owns all rights, titles, interests and intellectual property rights including the ‘Broadcast Reproduction Right’ for these Star Pay Channels under the Indian Copyright Act, 1957.

M/s Kanhan Cable Network is a Multi System Operator, having its registered office at located at Ward No-14, Damua Town, District Chhindwara, Madhya Pradesh-480555 and having its installation address also at Ward No-14, Damua Town, District Chhindwara, Madhya Pradesh-480555.

The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012, dealing with the framework for providing of signals of its channels by the various broadcasters to the various Multi System Operators across the country, provides that every broadcaster “shall” provide signals of its channels on non-discriminatory basis to a multi system operator upon request being made to it by the operator, unless the operator is in default of payment of license fee or otherwise does not conform to the prescribed audit. M/s Kanhan Cable Network had approached the company for availing rights to retransmit signals of pay channels of the company over its cable network. The company offered to supply signals subject to the Cable Operator complying with the provisions of the Cable Television Networks (Regulations) Act, 1995, Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable System) Regulations, 2017 read with Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017. The Cable Operator represented to the company that it possesses Digital Addressable System, Conditional Access System and the Subscriber Management System required by law. Addressable System is an electronic device (which includes hardware and its associated software) put in an integrated system through which signals of television channels can be sent in encrypted form and can be decoded by Set Top Box having an activated Conditional Access System at the premises of the subscriber (consumer) on the explicit choice and request of such subscriber by the Cable Operator. The Cable Operator assured that it has the capability and competency to transmit / retransmit signals in an unencrypted form over its cable network and that it shall submit complete and accurate subscriber reports clearly specifying all information required to calculate the monthly average subscription level and monthly subscription fee payable by the Cable Operator, more particularly channels or bouquets of channels subscribed by individual subscriber, price of such channels or bouquets of channels, activation and deactivation date and time for any channel or bouquets of channels, basis which the subscription fee payable to the company shall be determined, and thus gained trust of the company. The company therefore agreed to enter into a Subscription License Agreement with M/s Kanhan Cable Network on 26.12.2018 and entrusted signals of its pay channels, which have been judicially held to be movable property, to the Cable Operator for being used for retransmission over its cable network in an encrypted form to subscribers logged in the subscriber management system as per law and the terms of agreement. Section 4A of the Cable Television Networks (Regulation) Act, 1995 mandates every cable operator to transmit or retransmit programmes of any channel in an encrypted form through a digital addressable system. Further Clause 9 of the agreement stipulates that all subscribed channels must be delivered by the Cable Operator to the subscriber “in a securely encrypted manner as per applicable Law and without any alteration”.

However, contrary to the promise made and in betrayal of the trust reposed by the company in it, the Cable Operator has been dishonestly and deceitfully transmitting signals of its pay channels in an unencrypted mode alongside parallel transmission of signals in an encrypted form through digital addressable system. The Cable Operator has also been dishonestly not submitting the subscriber reports, and thereby not informing the company about the true and correct number of subscribers (customers) catered by the Cable Operator which in turn determines the amount of subscription fee required to be paid to the company and the tax to the government authority.

On instructions of the company, its constituted attorney- Nanavati & Co., Advocates deputed our anti-piracy agency, to reach the location and to capture transmission of signals in an unencrypted mode over its cable network by M/s Kanhan Cable Network. Accordingly, I carried out recording on 02.05.2019. The footage was sent to the company for examination of mode of transmission. The analysis showed that several channels belonging to the company Star Plus, Star Gold and Star Sports 1 - were and are being retransmitted by the service provider in an unencrypted mode over its cable television network.

Thus, the directors/managers Kanhan Cable Network who have been entrusted signals of its pay channels (property) by the company on a promise by the Cable Operator to lawfully transmit them in an encrypted mode through digital addressable system and under agreement prescribing the manner in which signals have to be retransmitted have been using and disposing of the property (signals) in violation of provisions of the Cable Television Networks (Regulation) Act, 1995 and the legal contract specifically prescribing the manner in which the entrusted signals are to be transmitted by the cable operator. A Multi System Operator is a merchant who takes signals from a broadcaster in bulk and thereafter retransmits them in course of its business in retail to its subscribers, either directly or through its affiliated cable networks. In this manner, the directors/managers of the service provider are committing criminal breach of trust by merchant punishable under Section 409 of the Penal Code. By transmitting signals in unencrypted mode to subscribers whose details have not been disclosed to the company the Cable Operator is making personal gain by collecting money from subscribers and dishonestly causing wrongful loss to the company by not paying it the license fee, and is also defrauding the government authority by evading payment of tax.

The unauthorised and illegal transmission of signals of the pay channels of the company by the cable operator also violates the broadcasting reproduction rights of the company, and thereby constitutes an offence punishable under Section 63 of the Copyright Act.

We, therefore, request your good self to register a complaint against the directors of M/s. Kanhan Cable Network for criminal breach of trust punishable under Section 409 of the Penal Code and Sections 37, 51 and 63 of the Copyright Act.

Sincerely

Encl:

1. Copy of Agreement
2. Copy of Special Power of Attorney