

Confusing The Captain With The Cabin Boy

The Dangers Posed To Reform Of
Cyber Piracy Regulation By The
Misrepresented Interface Between
Society, Policy Makers & The
Entertainment Industries

1.0 Introduction

- A Machiavellian Affair...?
- The tangled ball of string:
 - *IP Regulation*
 - *Consumers*
 - *Society*
 - *The Entertainment Industries' "Interface"*

2.0 Defining Piracy

- The Captain
 - Business/career pirate
 - Creates many unauthorised copies
 - Unauthorised copies sold for profit
- The Cabin Boy
 - Downloads free unauthorised copies
 - Private non-commercial use

The Piracy Spectrum

- **Captain**



– *Range of infringers (civil & criminal)*

- **Cabin Boy**

3.0 "Piracy Is A Crime"

- Industry Trust for IP Awareness
- Initial fund of £1.5million
- The "common enemy, the DVD pirates"
- *Cinema, TV, DVD & Poster Advertisements*

Piracy. It's A Crime.

- Commercials apparently predominantly targeted at "Cabin Boy" pirates
- Activity depicted in advertisements (e.g. downloading an unauthorised copy) is a **civil infringement**
- "Movie piracy is stealing, stealing is against the law. Piracy. **It's A Crime.**"

The Letter Of The Law

- “**Offences**...making unauthorised copies e.g. burning films onto DVD-Rs”
 - *But...*
- S.107 CDPA = “in the course of a business” to be **criminal**
 - *Otherwise...*
- S.27(2) CDPA = a **civil** infringement

The Copyright "Theft" Fiction

- Theft Act 1968 (as amended)
 - Information is not TA "property"
 - Oxford v. Moss [1978]
 - Absalom [1983]
- "Intention to permanently deprive"
 - R v. Lloyd [1985]
 - "all its goodness or virtue" must be gone

4.0 "Empire Investigates" Piracy

- 157,656 copies per month
- Is a man selling unauthorised copies:
 - Funding terrorism?
 - Working for the mafia?
 - Promoting slave labour?
 - Killing the movie industry?

- Is this article:
 - Sensationalising piracy?
 - Over-simplifying the piracy model?
 - Heavily biased in favour of ITIPA?
 - Factually incorrect?
 - Based on unverifiable statistics?

The Real Question...

- Why does this article misrepresent the piracy debate & law?
 - The author was influenced by ITIPA's misleading advertising campaign
 - *Or...*
 - The author did not wish to bite the hand that feeds the magazine

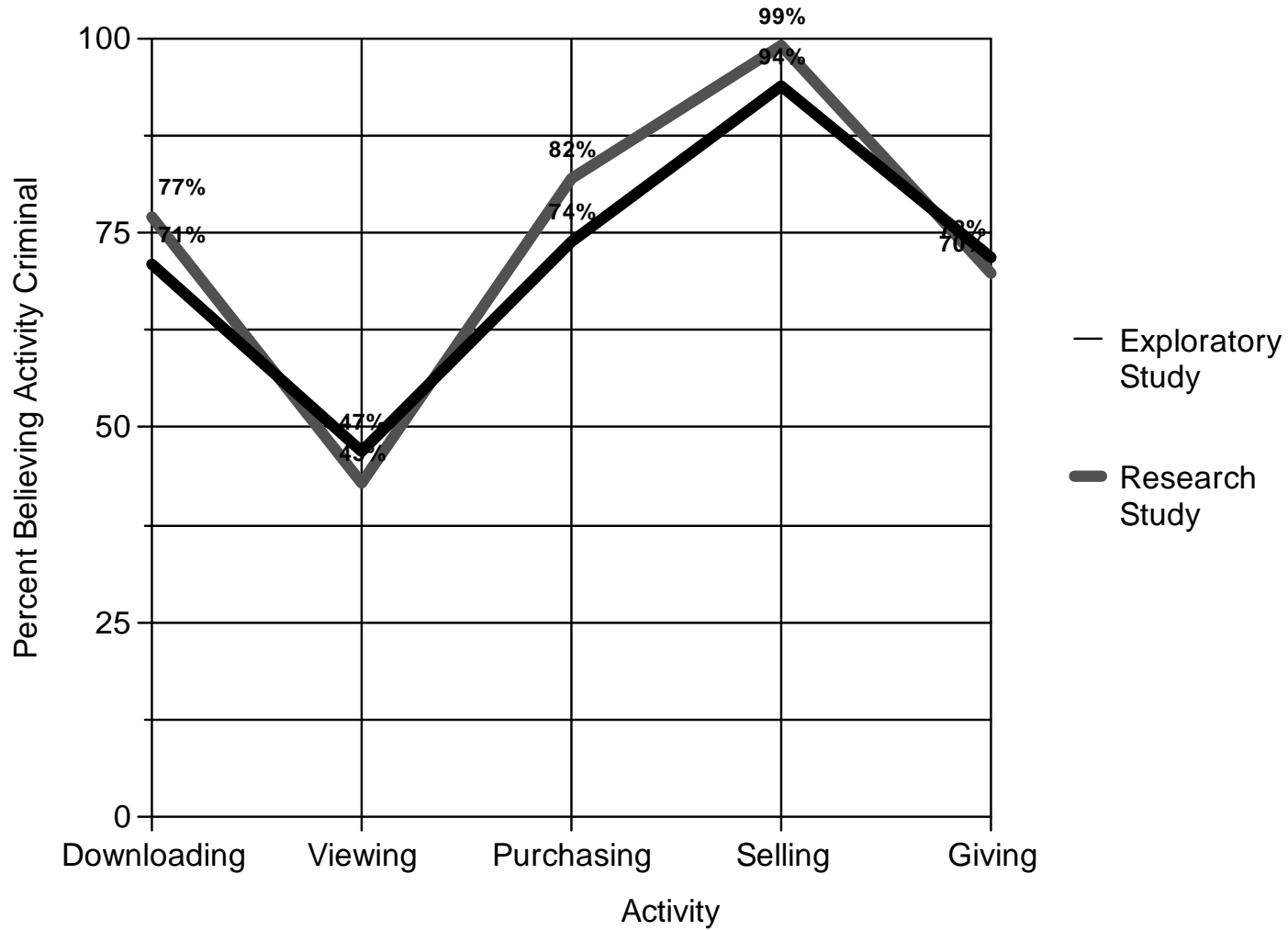
5.0 The Exploratory Study

- December 2006 (*full study Feb 07*)
- 157 Respondents (*full study 1,072*)
- Anonymous online survey
- Aimed to:
 - Establish the perception of law in relation to varying forms of piracy
 - Act as a pilot study for future research

Unauthorised Copies

- Downloading
 - Viewing
 - Purchasing
 - Selling (*potentially criminal – s.107(1)*)
 - Giving
-
- *Majority believed all but viewing were offences*
 - *All but selling are potential civil infringements*

5.1. Comparison of Perception of Law Between Exploratory Study & Research Study



Behaviour & Rationale

- Prices too high
- Time window
- Authorised copy always subsequently purchased
- Range / variety
- Evaluation
- Free & easy
- Industry delivery inefficient
- Negative view of industries
- Already paid for authorised copy (format shifting)
- No intention of purchasing authorised copy regardless
- Time shifting
- Unauthorised copies superior
- Abandonware / orphaned works

Why pirate?

- Prices too high
- Evaluation
- Free & easy
- Poor range / variety of authorised copies

6.0 How, What, Why

- How
 - ITIPA advertising campaign & lobbying
- What
 - Influencing / misleading society
- Why
 - To protect pre-existing retail models & avoid becoming defunct through complacency

IPPR Regulatory Scale

Knowledge = Asset
(American Conservatism)

Knowledge =
Asset > Public Resource
(UK Knowledge Economy)

Knowledge =
Public Resource > Asset
(Learning Society (some EU))

Knowledge =
Public Resource
(Cyber-Socialism)



X = Extent of deregulation / public domain

The Danger

- The view of the entertainment industries is represented as an objective point
- The lack of a large-scale unified opposing body leads to counter-view being under represented
- Society, and potentially policy makers, accept the industries' view as the objective marker

7.0 Conclusion

- A common misperception of the law is operating, which will result in:
 - Digital revolution limited by IP restrictions protecting outdated models; *or*
 - Industry acceptance of digital revolution leading to reform (Amstrad & Betamax); *or*
 - **Ongoing long-term battle eventually resulting in industry realisation that reform is beneficial**

www.CyberPiracy.co.uk

- *"...laws were made, that the stronger might not in all things have his way."*
- Full results of exploratory study available online
- Full study results available Q2 2007