

Premier League scores against illegal streamers: protecting broadcast rights

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Following an investigation led by the Premier League, five organisers of an illegal streaming network offering cheap subscriptions for Premier League matches have been jailed for a combined 30 years for conspiracy to defraud, money laundering and contempt of Court. Given the value of its broadcasting rights, it is not surprising that the Premier League has taken increasingly proactive steps to protect the value of its broadcasting rights.

Broadcasting rights

The most significant revenue stream for major sports competitions come from the sale of the rights to broadcast that competition or sport. For example, of FIFA's anticipated revenue of \$4.7 billion from the World Cup 2022 in Qatar, \$2.64 billion arises from its broadcast rights deals. Similarly, the Premier League's most recent broadcast deals (domestic UK and international) were reportedly valued at over \$12 billion for a three-year period. When distributed, those revenues account for a substantial proportion of the total revenue generated by Premier League clubs. For example, the Deloitte Football Money League estimated that an average of 44% of revenues for the top 20 football clubs in the world came from broadcasting rights in the 2021/22 season.

In the Irish context

In Ireland, the Premier League has successfully obtained live blocking injunctions compelling Internet Service Providers (ISPs) to block servers providing such streams. The first such application was brought in 2019 before the Commercial Court against a number of internet service providers, Virgin, Sky, Vodafone and Eircom. The key concern for the Premier League was identified in the judgment of a similar application brought the Premier League in the UK. There was increasing evidence of football fans turning to illegal streaming services as a substitute for

paid subscriptions to the Premier League's media partners (such as Sky and BT) and this undermines the value of the Premier League's rights which, if unchecked, is likely to reduce the revenue returned by the Premier League to football clubs, sports facilities and the wider sporting community.

| EU Directive 2001/29/EC

A live blocking injunction compels ISPs to identify and block illegal streams of Premier League matches during those games. The blocking order was granted on the basis of section 40(5A) of the Copyright and Related Acts, as amended, and Article 8(3) of Directive 2001/29/EC which both outline that owners of a copyright are entitled to *“apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright.”*

| Sony Music Entertainment v UPC

The Court held that the injunction met the legal test set out in Sony Music Entertainment v UPC as follows:

- (i) it was necessary;
- (ii) the costs involved were not excessive or disproportionate and that the order itself should not be unduly complicated;
- (iii) the cost sharing proposals were fair and reasonable;
- (iv) the order respected the fundamental rights of the parties affected, including internet users; and
- (v) the duration of the proposed injunction and the provisions for review were reasonable.

The Premier League successfully obtained further extensions of the live blocking injunction in 2020, 2021 and 2022.

| Conclusion

In 2019, an EU report found that 5.1% of the Irish population use a "dodgy box" to access illegally streamed content, including premium sport. Since then, the Premier League has obtained and renewed a live blocking injunction to block those illegal streams in Ireland and the UK and has successfully initiated criminal investigations to target organisers of illegal streaming networks. The increased value of Premier League broadcasting deals from \$11 billion in the 2019-22 cycle to over \$12 billion in the most recent cycle, suggests that the steps taken by the Premier League to protect the value of its broadcasting rights has been successful.

Our Ogier Sports Law team are sports law specialists in Ireland. We represent national governing bodies, clubs and athletes from every sporting code as well businesses operating in the sports industry. For information on broadcasting/media agreements or protecting intellectual property, please contact Paddy or Larry below.

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