EMERGING THREATS TO THE ONLINE PLATFORMS:

AN ANALYSIS OF THE EXTENT AND PREVALENCE OF PIRACY AND OTHER ILLEGAL ACTIVITIES RELATED TO THE SELLING OF ONLINE CONTENT [IN KZN]

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Executive Summary

This report presents the literature and findings of a study on emerging threats to online platforms, focusing on an analysis of the extent and prevalence of piracy and other illegal activities related to selling online content in KZN. This literature review provided an overview of piracy, as a phenomenon and possible threat to online platforms globally, in South Africa, and KwaZulu-Natal. An analysis of the extent and prevalence of piracy and other illegal activities related to selling online content in KwaZulu-Natal is discussed from a broad overview of online piracy. The literature also explores other institutions that oversee film and other copyright-related industries, such as The Film and Publications Board (FBP) which has done work on piracy and provided solutions through programmes such as the Web Rangers programme (FBP, 2019 report).

A mixed-methods survey design was employed to measure threats quantitatively, while gaining an in-depth understanding of perceptions of emerging threats to online platforms and how filmmakers across South Africa understand this issue. A total of 33 completed surveys formed part of the data analysis.

Participants alluded to not being sure if there are emerging threats in using online platforms to share film content. Most participants strongly agree that piracy of movies from the internet is common in South Africa. These results are consistent with the literature, especially as piracy is a worldwide phenomenon, where known threats of online piracy indicate that piracy accounts for approximately 42% of all online transactions (Sudler, 2013). The majority of the participants (25%) show that they agree, with the statement, that internet piracy is a lesser offence than physical piracy. Literature supports this disparity, where pirated movie sales are reported to account for 60% of the DVD market (Bilstein, 2010). This ultimately confirms that the South African market fails to meet mandated levels of copyright protection under the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The data also indicates that piracy remains pervasive and threats develop at the same pace as the developing technology. Piracy is also noted as a significant contributor to the negative economic impact, and literature asserts that the existence of piracy, and the lack of laws and policies against this phenomenon, contribute to the culture of corruption sustained by the criminal activities of illegal file sharing. Literature specific to the South African context regarding file sharing considers that the practice of file sharing is embedded in racial and

gendered exclusion and inequalities that inform the history of ownership of tangible and intangible property (Haupt, 2014).

Recommendations

- Copyright laws should be clear and specific for film content.
- Education and training should be offered to content producers, as well as audiences, to ensure that society is informed and makes informed decisions when purchasing or downloading content. So, in the case of taking a decision to purchase any form of pirated content, this would be an intentional act to infringe and engage in unauthorised consumption of content.
- Access to ICTs to cultivate a digital environment, where internet access is affordable for all.
- Better law enforcement structures, including a specific police unit that deals specifically with copyright infringement of creative industry outputs like film. This recommendation is extended to include specific punishable actions that policy and law enforcement should implement to curb any form of piracy

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Abbreviations and Acronyms

DRM	Digital Rights Management
FPB	Film and Publication Board
GATT	General Agreement on Tariffs and Trade
IIPA	International Intellectual Property Alliance
IP	Intellectual Property
KZN	KwaZulu-Natal
KZNFilm	KwaZulu-Natal Film
NFVF	National Film and Video Foundation
TRIPS	Trade-Related Aspects of Intellectual Property Rights
VOD	Video on Demand
WIPO	World Intellectual Property Organization
WTO	World Trade Organisation

Chapter 1: An Overview of Piracy

1.1. Background

Online platforms are emerging as growing spaces for the development of audio-visual and creative content for the African context. Piracy has been reported as having dual effects, through what is termed as cannibalising effect and the promotion effect. Ma, Montgomery, Singh, and Smith (2014) report and confirm that piracy is due to theft or negligence. Still, there is speculation that some piracy may be deliberately orchestrated by marketers (Ma et al, 2015: 1). Cannibalisation is described by Ma et al., (2015), as the direct reduction of sales of an authorised version due to the consumption of pirated copy.

Online piracy is the unauthorized duplication of copyrighted online content that is then sold at significantly lower prices in the 'black' market (The economic times, 2022). Joe Karaganis (2011) describes media piracy, broadly as a global pricing problem, due to the high prices of media goods, in contexts of low-income consumers. Karaganis (2011) argues that piracy in this context is the ingredient of global media piracy. The assertion is further supported, further elaborating that: *"If piracy is ubiquitous in most parts of the world, it is because these conditions are ubiquitous. Relative to local incomes in Brazil, Russia, or South Africa, the price of a CD, DVD, or copy of Microsoft Office is five to ten times higher than in the United States or Europe"* (Karaganis, 2011: i). In Africa, piracy is a key challenge to the growth of the film and audio-visual industry. As such, much of the sector's revenue is lost to the illegal exploitation of intellectual property, which ultimately impacts the entire industry, including international distributors and local creatives (UNESCO, 2021). In South Africa, the consumption of media goods is shaped by poverty and social inequality. Historically, South Africa's cultural economy was under repressive separatist ideologies -apartheid laws- and the resistance to these laws was marked by illegitimate flows of media piracy, including books, video cassettes, and audio cassettes. Technology advancements and access to digital platforms have meant that over the years, piracy has become common, and hard to detect. The rampant nature of piracy means that there are illegalities in accessing copyrighted content and economic losses to the content producers and creative industries. However, arguments in the discourse of piracy, from the consumption perspective, deduce that legal access to media content is a luxury in emerging markets and that there is a high rate of piracy in emerging markets, including Brazil, Russia, South Africa, Mexico and India. Industry estimates

of high rates of piracy in emerging markets—68% for software in Russia, 82% for music in Mexico, and 90% for movies in India—reflect this disparity and may even understate the prevalence of pirated goods (Karaganis, 2011: i). Ultimately, acknowledging the emerging market perspective in understanding the prevalence of piracy, gives insight into how consumers in low-income markets, through piracy have had access to a wide range of films and other media goods, including software and music.   A literature review is considered key to answering these research objectives. As such, the threat, nature and prevalence as well as preventive measures/ known standards/ measures to combat the illegal activities related to selling online content in South Africa will largely be informed by existing secondary literature. *It must be noted that   the following accronyms and words mean the same thing: [Human Capital Development (HCD), Industry Skills Developmeny (ISD)] / [KwaZulu Natal Film Comission (KZNFilm)]. This is a change that was approved in October 2022.*

The focus of this report is placed on the emerging threats to online platforms. This comes from a desire to ensure that filmmakers are equipped with knowledge associated with threats that go with online platforms. With a drive to encourage filmmakers to learn and adapt to the use of new platforms, this study is critical in ensuring that their participation is informed and effective. The following are the overall objectives of this study:

1. To identify the emerging threats in using online platforms to share film content.
2. To measure the threats quantitatively.
3. To analyse the prevalence of illegal activities related to the selling of online content in KZN [and SA].
4. To outline the known standards/tools/measures to combat the threats.

1.2. Aims of the study

This research aims to identify emerging threats in using online platforms to share film content. Secondly, to measure the threats quantitatively and offer an analysis of the prevalence of illegal activities related to selling online content in South Africa, and the region of KwaZulu-Natal. Lastly, to develop recommendations for the KZN film industry to curb piracy and illegalities in this region.

1.3. Structure of the Report

Following this introductory chapter, Chapter 2 of this report presents the findings from an extensive literature review. Chapter 3 of the report covers the methodological procedures employed to carry out the study, while Chapter 4 includes the key findings and a discussion of the results. Chapter 5 provides conclusion and the recommendations for the local KZNfilm sector.

Chapter 2: Literature Review

2.1. Introduction

This literature review aims to provide an overview of piracy, as a phenomenon and possible threat to online platforms globally, in South Africa, and KwaZulu-Natal. An analysis of the extent and prevalence of piracy and other illegal activities related to selling online content in KwaZulu-Natal will be discussed from a broad overview of online piracy. The Film and Publications Board (FBP) has also considered the issue of piracy and through the Web Rangers programme, has created an awareness initiative to train law enforcement agencies, educators and parents on safe internet use, child abuse materials and child sexual abuse (FBP, 2019 report). Piracy and intellectual property protection, is a value-added element, extending the FBP focus, on protecting the creative industry. Through the Web Rangers programme, the FBP over the years has conducted raids, and collected illegal discs with street value. These illegal items are confiscated and destroyed (FPB, 2019 report).

Online piracy, through the Internet, is *"typically viewed as causing massive financial damage to the producers of media products"* (Yue, 2020: 618). High piracy rates are typically attributed to a lack of intellectual property protection and the high price of licensed products relative to local income in developing countries (Karaganis, 2011). Globally, piracy studies have examined the effects of pirated goods on sales of licensed products, and less on the extent and prevalence of piracy (Yue, 2020). Historically, South Africa has had significant campaigns against the piracy of movies. Understanding digital technologies provide tangible insights regarding issues of the digital divide, digital growth in Africa, and how creative industries, specifically film production, have increased the digital footprint of the African film industry (UNESCO, 2021).

2.2. Understanding Piracy

At a piracy seminar held in Johannesburg on the 24th of March 2022, Ronald Lamola, Justice and Constitutional Development Minister, said that the "government plans to crack down on pirated content in South Africa as part of a move to further bolster investment and protect jobs" (Businesstech, 2022). A key challenge to the growth of the film and audio-visual industry in Africa is rooted in the fact that so much of the industry's revenue is lost to the illegal exploitation

of intellectual property, impacting the entire industry, from foreign distributors to local creators. Piracy, across the world, is a significant and prominent occurrence with negative effects on the economy and on the ability of creative professionals to earn revenue from their intellectual property and to sustain employment in the creative industries. Online piracy of film and television content, Bilstein (2010) reported on South Africa's movie piracy challenges, where it was highlighted that the challenge is within the areas of copyright protection and enforcement. Bilstein's statement is affirmed by Yue (2020) by stating that; *"High rates of piracy are typically attributed to a lack of intellectual property protection and the high price of licensed products relative to local income in developing countries"* (Yue, 2020:618). The financial implications and losses perpetuated by piracy, therefore threaten revenue growth for films produced in an environment with no protection for intellectual property. Piracy flourishes in an unprotected environment, despite the work done to curb piracy of intellectual property (Yue, 2020).

Piracy is a worldwide phenomenon, and this has led countries to collectively seek solutions to curb trade. South Africa, alongside countries such as Australia, Austria, China, Japan, Malawi, Nigeria, and the United States of America regarded as a member of the World Trade Organisation (WTO) and by default affiliated with The Agreement on Trade-Related Aspects of Intellectual property Rights (TRIPS). The agreement establishes minimum standards for the regulation by the respective national governments of different forms of intellectual property . It states that members shall be free to determine the appropriate method of implementing the agreement's provisions within their practice. Each country is expected to exert these Western intellectual property regulations as each country sees fit within its context. *"South Africa is a party to most international conventions protecting intellectual property, it is determined to uphold its commitments to the World Trade Organization and to support the rights of local and foreign companies"* (Bilstein, 2010: 27). However, scholars such as Adam Haupt (2010, 2014) have asserted that multilateral trade agreements guard the interests of corporations from the northern hemisphere and that they serve corporate interest whilst eroding public interest and undermining democratic processes. South Africa still faces many challenges in the areas of copyright protection and enforcement, especially in trying to mitigate the issue of movie piracy (Bilstein, 2010: 27).

The internet and digital distribution are further challenges that are now experienced by media and content producers (Yue, 2020; Ma et al, 2014). Yue (2020) affirms this by stating that: *"Internet copyright piracy is typically viewed as causing massive financial damage to the*

producers of media products" (2020:618). Ma et al (2014) deliberate on digital distribution and piracy, further questioning *"whether and how much digital piracy impacts revenue, how the threat from piracy differs across the product's lifecycle, and how to develop strategies to respond to any threat posed by piracy"* (2014; 590)- These questions are noted as increasingly important for motion picture studios, which claim losses after spending millions of dollars on producing movies (Ma et al, 2014). Financial loss has been studied in numerous kinds of research, which examine the effect of pirated goods on sales of licensed products (Bhattacharjee et al 2007; Danaher & Smith, 2014; McKenzie & Walls, 2016; Oberholzer-Gee & Strumpf, 2007; Rob & Waldfogel, 2006, 2007; Yue, 2020: 618). Similar challenges are noted in developing countries like South Africa, where pirated movie sales are reported to account for 60% of the DVD market (Bilstein, 2010). Furthermore, the International Intellectual Property Alliance (IIPA), reported in 2010, that *"South Africa fails to reach the mandate levels of copyright protection under the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT), especially regarding enforcement"* (Bilstein, 2010: 27). To return to the opening statement, drawn from the piracy seminar held in South Africa, in 2022, piracy remains pervasive and emerging threats develop as quickly as technology develops.

The promotion effect is to build awareness through word-of-mouth communication- to promote the film outside the authorised platforms of distribution. The implication received from word-of-mouth, as suggested *"even though consumers do not watch the movie at the box office, they will spread the word-of-mouth messages about the movie and inform other consumers just as if they had seen a legal copy"* (Ma et al, 2015: 1).

The current discourse on piracy frames the piracy trade in two folds; the first is that piracy is an act of liberation and the second one is that it is an illegal act. For example, Chaudry and Zimmerman (2010:7) assert that piracy has a negative economic impact on countries. Phillips (2007) writes that for as long as the society pretends that piracy does not exist, the society is guilty of the loss of jobs, corruption and bribery and that the society is part of a criminal network (2007: 4). Bosch (2010) argues that piracy is an expression of a politics of resistance to racism and racial disadvantage, but more specifically that it is a routine social practice that is deeply embedded within the lived reality of community members. Haupt (2014), emphasises that the media industries' rhetoric of piracy does not acknowledge the racial and gendered exclusions or inequities that form an important part of the history of the ownership of both tangible and intangible property (2014:189).

2.3. Emerging threats and file-sharing

The music industry became the first significant creative industry to suffer from piracy, especially with the emergence of internet file sharing and the development of Napster in 1999 (Danaher & Smith 2013). The short time and rapid development of music-related technologies, such as "audio-compression technologies and applications (MP3) players in 1998, peer-to-peer (P2P) file sharing networks like Napster (in 1999) and online music stores in (2000) were introduced in a relatively short period and gained rapid popularity" Bhattacharjee et al, (2007: 1359). Baloyi (2020) confirms the rapid pace of new technologies and states that the *"emergence of new technologies has necessitated the development of further legal provisions"* (Baloyi, 2020:236) for right holders to experience better protection.

Copeling (1969) defined copyright as *"that right which vests in the author of every original literary or artistic work and enables him to prevent the unauthorised copying of his work, provided, always, that the work is not of a kind which is contrary to public morality"* (Copeling, 1969: 242). The World Intellectual Property Organization (WIPO) extend the definition of copyright-based industries as *"those engaged in the creation, production and manufacturing, performance, broadcast, communication and exhibition or distribution and sales of works and other protected subject matter"* (Pouris & Inglesi-Lotz, 2017:3). Technological developments are however celebrated for advancing access for people around the world to enjoy music, films, or TV shows. However, the same technology is apprehensive within the copyright industries, as the internet has made fraudulent access to content easier, which creates a risk of violating intellectual property rights (Justia, 2022).

Nollywood, the second-largest global film industry, is reported to continue to grow but is still plagued by different forms of piracy (Zenger News, 2021). Nollywood sprang to prominence during the early 1990s digital revolution when camcorders replaced 35mm film cameras, and digital systems replaced celluloid recording devices (Zenger News, 2021). The digital revolution propelled, while Nollywood filmmakers relied on low-cost VHS cassettes and readily available and affordable devices (Zenger News, 2021). This also exposed the content to easy-to-pirate methods, which opened the Nollywood promotional effect of piracy- a strategy recognised as a method that helped Nollywood to expand. However, this method is currently infringing on Nollywood's potential growth despite its success, leading the African continent and competing with Bollywood and Hollywood industrys.

With regard to online platforms to share film content, the digitalization of media streaming threatens the old model of television broadcasting. Online films through streaming services have threatened television broadcast viewership for a number of years (Gupta, 2017). This means a significant threat to television broadcasting due to the rise of digital streaming media. Media streaming provides alternatives for audiences to select channels or a variety of streaming services outside of the mainstream model built around satellite and cable television offerings channels to consumers fixed at a price with few choices for viewers. Video on demand, therefore, threatens television broadcasting and cinema audiences (Gupta, 2017).

To optimise viewership and new consumer trends, mainstream broadcasting services now offer options to view programmes on any smart device, at any time they want. *"Television everywhere"*, emerges with threats that compromise security by sharing devices, accounts and personal information to access the content, which opens access to hackers (Gupta, 2017). With the growing developments of network infrastructure, online piracy is prevalent, illegally distributing over the internet, resulting in loss of revenue across television and cinema worldwide. To address the challenge, Gupta (2017) suggests that broadcasters need proper infrastructure, security, policies, and firewall protection to ensure hackers do not have access to the content. Old content needs to be digitised, archived and stored with proper tagging to ensure there is long-term usage (Gupta, 2017).

Audio-visual consumers have evolved as digital platforms change to suit their consumption of television and cinema. Gupta (2017) states, *"Users no longer consume what is being offered to them but choose from a host of options available to them anywhere, anytime across multiple channels".* Ultimately traditional content is finding ways to exist within digital media which poses a threat to the television traditional model, as preference is aligned to viewer's behaviour. Today's consumers feel that TV has not kept up with the progress brought by the internet. Consumers are used to the recommendation and search engines (e.g., iTunes, Amazon, Google, YouTube) and the interoperability of their media assets to be used in a diversity of platforms (Mariátegui, 2013). Within digital platforms, videos tend to go 'viral' allowing content to travel across geographies quicker. The internet as an enabler, allows sharing of content, based on the viewer's power to generate content they 'like', and share it at a pace that some content producers have no control over. Moe (2005) argues that new digital technology renders television channels superfluous, offers unlimited content on-demand and provides full interactivity for viewers. Therefore, television viewers have complete control of their television use, free from the television networks' tyranny, schedules, and offers" (Moe,

2005: 773). There is no reliability and accuracy in how content is shared, and copyright issues of user-generated content are usually not verified. Illegalities occur when original content is commercially distributed online, and the original content producer may lose revenue (Gupta, 2017). The lack of content management, through 'tagging', and metadata, makes it impossible for content producers to compartmentalise reuse, leading to content duplication (Gupta, 2017). The other threat to audio-visuals is the lack of 'quality content', meaning content producers often utilise content already in use, by recycling content for specific regions to cater for different geographies.

> ***Summary: Emerging threats in using online platforms to share film content***
> - Advance technological developments within the copyright industries which creates a risk of violating intellectual property rights.
> - Video on demand and/or media streaming threatens television broadcasting and cinema audiences.
> - The threat of the internet as an enabler of content sharing at a pace that content producers have no control over.
> - Lack of reliability and accuracy in how content is shared, and verification of copyright user-generated content.
> - The lack of content management, through 'tagging', and metadata, makes it impossible for content producers to compartmentalise reuse, leading to content duplication.

2.4. Tools to combat online piracy

Information assets produced by music, motion pictures, print media and software industries are further considered most vulnerable to online piracy (Sudler, 2013:2). Three factors of the digital revolution are reported by Sudler (2013:2) as *"'perfect storm for online piracy–a condition that if not managed appropriately could significantly damage market growth and industry sustainability"*. These factors include, firstly, that content has become easier to copy and secondly, the introduction of the world wide web, a commercial internet protocol that has essentially opened the door to low-cost global distribution, and thirdly, high-speed network-which advanced broadband technology to allow people to upload and download quicker. Online piracy negatively impacts distribution networks, from the digital copyright creator to the consumer. Service providers that house the accessible file-sharing spaces should use solutions to mitigate and reduce the currently unauthorised copying of online content.

Cartesian (2022) suggests the following Digital Rights Management (DRM)- a technology used to restrict unauthorised duplication of content and enable content owners to enforce licensing requirements. The protection implemented by content from being distributed restricts the ways users can obtain content. The second strategy is Forensic watermarking solutions, which help the user and reduce digital piracy. A visible watermark helps to deter piracy, whereas an invisible watermark can help hinder pirate distribution. For example, Lam (2019) reports on a case where the full HD Blu-Rays of Smurfs 2, patriots Day and Inferno appeared on torrent sites. Because of watermarking technology, the offenders were tracked. Lam reports, *"Video watermarking aims at combating post-decryption piracy. When the content theft occurs after decryption, conditional access systems (CA's) and DRM solutions cannot help, and watermarking has proven to be an effective solution"* (Lam, 2019).

The technology aims to mark video securely forensically at the server and/or client to recover information necessary to address breaches. Secondly, the watermark shall be robust against the corruption of the forensic information, including collusion attacks and transformation and capture techniques that leave the context still watchable. Thirdly, the watermark shall be inserted on the server or on the client such that valid insertion is guaranteed during playback even if the device and its secrets are compromised. These specifications are put forward by *Movie Labs* and indicate a serious effort on the content owners' part to mitigate piracy risks (Lam, 2019).

2.5. Cultural industry and the economy

'Cultural Industries' as identified by the Department of Arts, Culture, Science and Technology (DACST) include the music industry, the craft industry, the publishing industry and the film and television industry (the most essential core copyright-based industries) (WIPO, 2011:11; Pouris & Inglesi-Lotz, 2017). *"Their selection was based on several criteria including the recognition that these sectors were identifiable industries in South Africa, are potentially internationally competitive and have the potential to create employment and offer opportunities for rural and urban job creation"* (WIPO, 2011). The KwaZulu-Natal Film mandate is to promote and market the KZN film industry, for economic and development of the industry. Research indicates that the copyright industry is considered to be an influential aspect of economic growth and development, as it contributes to the improvement of all the other traditional factors of production: Capital, labours, technology progress and entrepreneurship (Pouris & Inglesi-

Lotz, 2017). The copyright-based industries as reported by Anastassios Pouris and Roula Inglesi-Lotz (2017), account for:

> *"as much as 4.1% to the total South African economy … Among the sub-sectors of copyright-based industries, the core industries contributed 2.05%, the non-dedicated industries 1.29%, the interdependent industries 0.56% and the partial industries 0.21%...The total copyright-based industries employed 4.08% of the country's workforce. As far as exports are concerned, the share of the copyright-based industries was at a similar level (4.07%), and for imports, the total copyright-based industries' contribution was approximately double that of the other indicators (7.85%) - a finding that is not that surprising, especially for countries that have a low high-tech manufacturing base"*

Pouris and Inglesi-Lotz conclude in their report that, copyright-based industries play an important role in a country's economic growth and employment trends, and that 4,08% of the workforce is employed in the copyright-based industries, especially within the core and no dedicated copyright-based industries (2017: 6).

2.6. The prevalence of piracy and illegal activities

The literature on known threats of online piracy indicates that piracy accounts for approximately 42% of all online transactions (Sudler, 2013). This particular focus is drawn from a broader perspective on illegalities and is not specific to KZN or South Africa. However online piracy remains prevalent globally.

The extent and prevalence of piracy are significantly pervasive in today's consumption of copyright-based industries, especially in Africa (UNESCO, 2021). Historically, Africa's creative industry has experienced extensive illegalities, especially with Africa's popular musicians feeling desperate and frustrated (UNESCO, 2021). Most African countries do not have effective policies or systems to support creative activity (Schultz & van Gelder,2008).   Illegal activities evolve as the technology to access content develops. The tangible forms of piracy, for instance, include street vendor sales of DVDs and CDs, bootleg recordings of concerts, movies shown in the cinema, or on television, and recordings of music through radio broadcasts (Justia, 2022). Research further reports on other forms of infringement, including counterfeit recordings, which reproduce a recording without permission, while duplicating the

packaging that comes with the original recording, such as trademarks and labels (Justia, 2022). In other cases, people make 'pirate recordings', which are similar to counterfeit recordings, except that they do not duplicate the packaging that comes with the original recording (Justia, 2022). Pirate recordings often involve the compilation of multiple recordings and sometimes multiple entertainers in one package (Justia, 2022).

Online threats are more intangible as they take shape within file-sharing websites within a cyber environment, making them difficult to trace as the technology rapidly changes. Cassim (2009) states that "cybercrime will often emerge with evolving technology; therefore, new cyber laws should be introduced to respond to these rapid changes" (2009: 36). In South Africa, "unlawfully downloading copyrighted videos and other content, would not legally be considered theft" (Vermeulen, 2021). The Cybercrimes Act states that "theft of non-physical property should be treated the same as regular, common-law theft". However, the issue of theft is still debated, as the Cybercrimes Act conflates with other statutes. Vermeulen explains:

> *According to Snyman, an act of appropriation has two elements in that the thief deprives the lawful owner or possessor of his property and then himself exercises the rights of an owner in respect of the property…When downloading a copy of a movie, the actual owner of that movie is still technically in possession of it and is not deprived of the original copy…It can be argued that the owner has been deprived of his exclusive right to the incorporeal property and that his incorporeal property right has been diminished by the unlawful copy, however, this point has not been developed in our law as yet (Vermeulen, 2021, Businesstech, 2022)*

As it stands, online illegalities and threats are not effectively prevented and stand to infringe on the copyright-based industries, which have the potential to stifle the economy, as these industries are a potential aspect of economic contribution, especially to developing countries, like South Africa.

2.7. South African audio-visual environment

The South African audio-visual have significantly grown. Audio-visual equipment is considered lightweight, affordable and accessible compared to traditional film equipment (UNESCO, 2021). Digital tools have given Africa access to digital platforms that produce cinema quality using digital technology. As a reference- Jenna Bass's 'High Fantasy' (2018) was shot mainly

on smartphone technology (iPhone 7). Mobile-enabled solutions disrupt the traditional value chains in other filmmaking-related industrys. For example, in 2021, the National Film and Video Foundation provided stimulus grant funding to the university of KwaZulu-Natal's Fukamisa Instha Film Project. The project was a community outreach offered online- through e-learning modules, using Microsoft Teams, to teach scriptwriting, production management, marketing and distribution, set design, wardrobe, makeup for film, sound and lighting, directing, as well as director of photography. The blended learning took shape when the practical aspects of making a film were implemented for the project to produce three short films, during some restrictive lockdown measures, during the pandemic. This particular case study is an example of disrupting traditional value chains. This was done firstly by opening up learning filmmaking to a community of youth who would not usually have access to expensive film training colleges, and also by producing film content that is quality film quality from a short course, managed and run during the hard lockdown, through eLearning. Although there were successes, at the end, the project faced challenges that included access to data (WIFI), mobile resources (smartphones and laptops), and travel costs (affordability to participate fully) which became barriers and sometimes contributed to the dropout rate the project experienced (Fukamisa Instha Film Project, 2021).

Other enablers of the audio-visual culture include social media networks. UNESCO's study on the African Film sector reports that "YouTube has become the main avenue for the professional training for scores of filmmakers and special effects artists across Africa, many of whom are self-taught" (UNESCO, 2021:23). Google video service is also noted as an essential tool for self-distribution. This is illustrated by the proliferation of Web series in local languages in countries such as Ethiopia, Kenya, Rwanda and Senegal (UNESCO, 2021: 23). The made-for-the-internet productions are also starting to grow (UNESCO, 2021). Although they deviate from traditional television services, they usually enter the television services after successful rates as web-based internet productions. KZN-specific examples are Leon Gumede and Sesanathi's channels on YouTube. Leon Gumede productions have 495k subscriptions on YouTube (2022). Gumede's channel produces short comedy skits; his latest production is Ekasi Learners. Sesanathi studio currently has 384k subscriptions (YouTube, 2022). They produce short episodes of a series titled Abafana The Boys vs Amantombazne The Girls, and recently a new series titled, The President. What is unique about the production is that the talent is primarily young children, who take viewers through a tale of 'playground' drama based on gender rivalries between young girls and boys, set in a township, in KwaZulu-

Natal. The Sesanathi studio YouTube page also has a membership feature for subscribers to access exclusive content when purchasing a membership to their channel. Both the channels mentioned here use local languages and appeal to social media users who interact with media outside the traditional television services. Therefore, social media cultivates self-taught creatives and encourages using indigenous languages, and their productions are self-funded. YouTube has also initiated the #YouTubeblack voices Fund to provide creators with financial and technical support (UNESCO, 2021).

Facebook has enabled accounts with more than 10 000 followers to monetise their videos through ads and fan subscriptions. Instagram recently rolled out the data-light Africa and is testing monetisation on Instagram life and IGTV. TikTok just signed a licensing deal to allow African artists to earn residuals when their music is used on the platform. What UNESCO reports is a structural process social media platforms are taking to monetise content streamed for entertainment.

The Video on demand sector (VOD) is also assisting in widely distributing the content produced in Africa. Popular companies include Netflix, Showmax, Iroko TV and Amazon (Onyango, 2022). Netflix, an American-owned VOD operator, has over 2 million subscribers in Africa and unique original African content, including Queen Sono, Blood and Water, My Octopus Teacher, How to Ruin Christmas, The Wedding, Oloture, and Citation. South Africa's VOD, Showmax, has over 688k subscribers across the continent, and notable films there are Tali's Baby diary, Blood Psalm, Big Brother Naija, Temptations Island South Africa, and Crime and Justice. Nigeria's Iroko TV, whose operations extend beyond English-speaking Africa, has 331k subscribers, and notable films include Jenifa's Diary and Husbands of Lagos. Amazon, a United States-owned company, has 100k subscriptions in Africa and has not yet showcased films produced from the continent.

2.8. The digital environment in Africa

The digital environment in Africa can be described as underdeveloped, set against global digital development (or advances) (Stuart, 2022; ITU, 2021). John Stuart (2022) confirms this by stating, *"Several African countries have 'dualistic' economies, characterised by a modernised urban sector and poor and underdeveloped rural sector. This economic dualism extends as well to digital penetration, with urban areas covered by fixed and mobile broadband, while many rural areas have little to no connectivity at all"* (Stuart, 2022).

Therefore, Africa lags behind the global aggregate in terms of digital development and the digital divide. Still, its rate of improvement is such that it is converging into global aggregates at an admirable pace (Stuart, 2022). While the global digital environment is advancing towards 5 G connectivity, Africa is lagging and occupying the 3G and 4 G mobile broadband network technology.

According to the International Telecommunications Union (ITU, 2021), it was estimated that 4.9 billion people would be using the Internet in 2021. Roughly 63% of the world's population is now online, with a 17% increase from 800 million people estimated to have come online since 2019 (ITU, 2021: 1). Internet penetration increased by more than 20% in Africa, Asia, the Pacific and the undesignated least developed countries.

The ICTs and the Internet sectors have been argued to be vital in helping maintain continuity in business activity, employment, education, provision of basic citizens' services, entertainment and socialising (ITU, 2021). Globally, developing countries rely on mobile broadband (3G and 4G) to connect to the internet. Mobile broadband has therefore propelled the necessary connectivity, which shows through significant penetration of 95% of the world population with mobile broadband network connectivity. ITU reported that between 2015 and 2021, 4G network coverage doubled to reach 88% of the world's population (ITU, 2021: 10). The coverage gap, however, remains significantly low in Africa despite a 21% increase in 4G coverage in 2022.

The geographical disparity setting of the rural and urban binary adds to dynamics related to barriers to connectivity in Africa. These barriers are factors that contribute to issues of the global divide. The ITU reports, *"Globally, people in urban areas are twice more likely to use the Internet than those in rural areas. In Africa, the gap is greater where one-half of urban dwellers are online, compared with just 15% of the rural population"* (ITU, 2021:6). The digital divide and usage gap are multifaceted and vary by region. Still, key factors include lack of affordability, relevance, knowledge, skills, safety and security concerns. Barriers to mobile internet adaptation are particularly acute among specific segments of the population, including women, the elderly, those in rural areas and persons with disabilities; these can be intersecting factors from these segments of society (Munga, 2022).

The discourse on the digital environment in Africa as a whole is significant as it outlines the continent's digital growth and challenges. Some of the challenges that have been highlighted

reflect a lack of support or capital investment into digital technologies and the manner in which the consumers and users of digital platform access can lead to illegalities as it is still an unprotected space, especially the piracy of films and online content.

The African continent has seen significant growth in digital technology in the last 15 years (UNESCO, 2021). The growth is mainly driven by mobile technology and massive investments in the continent's internet infrastructure (UNESCO, 2021). Across the continent, there are 816 million mobile SIM connections in Sub-Saharan Africa (77% penetration rate) and 712 million in the Middle East and North Africa (116% penetration rate). In several African countries, the digital economy is becoming one of the primary growth drivers, accounting for more than 5% of the GDP (UNESCO, 2021).

Film productions are starting to grow in KZN. The growth of productions are measured by the number of film companies that are producing content from the region (UNESCO, 2021) Although they deviate from traditional television services, they usually enter the television services after successful rates as web-based internet productions. KZN-specific examples are Leon Gumede and Sesanathi's channels on YouTube. Leon Gumede productions have 4. However, compared to the rest of the world, Africa lags in the full adaptation of digital technologies, and the usage gap. Set against 5G adaptation (also projected to 2025), the Asia Pacific dominates (64%), and North America (63%), while Africa sits at 4% of the global average (GSMA, 2022). In 2021 the usage gap globally stood at 3.2 billion people, or 41% of the global population (GSMA, 2022: 2). The usage gap is essential to consider because, although there have been significant operators investing in network infrastructure over the last decade, to shrink the coverage gap for mobile broadband networks from a third of the global population to just 6%. Rural communities globally are underserved. Although innovative solutions and partnerships exist to extend connectivity, research suggests that "the adaptation of mobile internet services has not kept pace with the expansion of network coverage resulting in a significant usage gap mentioned earlier.

2.9. Conclusion

The discussion outlined emerging threats in using online platforms to share film content, which includes online streaming as a direct threat to the traditional television model. The South African government plans to have tighter structures to combat pirated content in South Africa as part of a move to further bolster investment and protect jobs. Piracy within this context is

prevalent and illegal activities are due to sharing files through online file-share technologies. Literature suggests that known threats can be dealt with through tagging, and copyright-protecting films, which will allow tracking of a product.   An outline of prevalent scenarios is discussed, outlining tangible and intangible cases of piracy that have impacted the music, film and other copyright industries. ICTs and the internet are also discussed to understand the digital environment. This background on the digital space is essential to understanding 'user' behaviour and levels of digital culture in this context. The literature also reveals how the lack of effective law enforcement and structures to report piracy have been contributing factors to the pervasive nature of piracy. Piracy, therefore, continues to be problematic, for copyright-based industries, especially with technology development.

Chapter 3: Methodology

3.1. Introduction

The section outlines the methodological approach used to conduct this study. A mixed methods design was used based on the objectives of the study. The study questioned the emerging threats to online platforms and sought to analyse the extent and prevalence of piracy in South Africa and KwaZulu-Natal. As per the objectives of the study, the quantitative design assisted in measuring threats quantitatively. In contrast, the qualitative methods employed provided an in-depth understanding of perceptions of emerging threats to online platforms and how filmmakers across South Africa understand this issue.

3.2. Sampling

The research aimed to target a total of 384 filmmakers based in KwaZulu Natal (KZN). However, due to the smaller database received by KZNFilm, which consisted of a total of 249 filmmakers in KZN, the sample size was not feasible. Drawing on previous databases which included filmmakers based in South Africa as a whole, rather than limited to KZN, a larger sample size was attempted. In addition to the databases received, KZNFilm also provided further details of agencies where additional contacts of filmmakers in South Africa could be sourced.

3.3. Data Collection Tool: Survey Questionnaire

The survey was divided into five sections. The first section sought to understand the demographic information of all the participants. The questions asked about racial and ethnic identity; age group; language, name of business; level of education and film training; geography (location). The second section focused on online film production. The questions asked sought to understand if the producer/filmmaker produces content for the online distribution and expand on what platforms their work is distributed on. The third section focused on emerging threats and sought to understand if filmmakers understand their intellectual property and the measures, they have taken to protect their intellectual property. The fourth section sought to understand the illegalities of online piracy using quantitative scales. The fifth section sought to gain in-depth responses on combating threats of piracy, with open-ended questions to allow participants to elaborate on their views.

3.4. Data collection procedures

An introductory letter to the study, signed by KZNFilm as well as the link to the online survey was distributed to all participants on the databases received as well as contacts into the film industry gained in addition to the databases. Participants were called telephonically to be reminded that the survey was sent to them for completion. Despite numerous attempts to get filmmakers to respond to the survey, the response rate was very low. In an attempt to increase the survey numbers, a decision was taken to extend the fieldwork period by a further 2 weeks. Despite efforts made, the response rate for the filmmaker survey remained low. The table below shows the response rate in undertaking the study:

Table 1: Survey response rate

Required Surveys	Surveys completed	Phone Calls made	Survey Links send out	Survey Reminders send out	Incomplete Surveys
384	33	1339	305	3 times per person	24

3.5. Data Analysis

After the fieldwork period ended, the data collected was cleaned and quality controlled. Only fully completed surveys were included in the final dataset and any duplicates or partially completed surveys were removed. Quantitative data was processed using the IBM SPSS software. Qualitative comments collected from the survey were analysed thematically. Quotes and supporting text relevant to the themes were extracted from the data to provide supporting evidence for the themes relevant to this study. Findings from the filmmakers sought to understand the quantitative nature of threats to online platforms, which are organised through tables and graphs, with calculated percentages.

3.6. Ethical Considerations

a. Participation in this research was voluntary. No participants were coerced into participating against their wishes.

b. The personal details of all participants that took part in this study were treated as confidential. The data that was collected was kept on a password-secured computer and stored on point-to-point access, available to the Mthente Team.

c. To safeguard the identity of the participants that took part in the study, no names or identifying information that related to any of the participants were added to the report.

3.7. Limitations

The main limitation of this research study was the small sample size obtained. While the target for the sample was 384, a total of 33 quality-controlled surveys were completed. An executive decision was made by the project teams after an extended fieldwork period for the survey to close due to the response rate not making any progress. Possible reasons for this include people being afraid to share the link to the survey with other filmmakers due to POPIA regulations, outdated contact details on the database of filmmakers supplied or perhaps that respondents were not interested in a study of this nature. The limitation in terms of a sample size was mitigated by conducting an in-depth literature review to substantiate on the discourse of online piracy globally and assist with the triangulation of the findings.

Chapter 4: Research Findings

The purpose of this study was to investigate emerging threats to online platforms and to analyse the extent and prevalence of piracy and other illegal activities related to the selling of online content. In so doing the section will focus on assessing the emerging threats in using online platforms to share film content and the prevalence of illegal activities related to the selling of online content in KZN. This chapter provides the key findings which emerged from the study.

4.1. Demographics

Demographic components for the study were collected, covering the following key components: ethnicity, language, age, level of education, film training, and level of training.
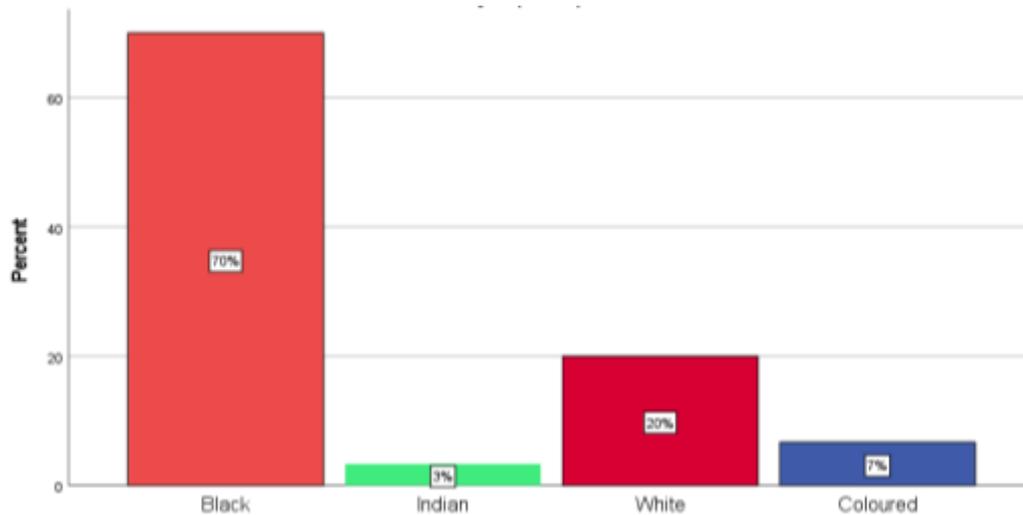
Figure 1: Ethnicity of participants

Majority of the participants identified as black (70%), and only 3 % of participants identified as Indian. The distribution on figure 1 is consistent with South African population trends, where the majority of the national population is predominantly black (49,1 million) and individuals with an Indian or Asian background constitute the smallest group counting approximately 1,56 million people overall (Statista, 2022).
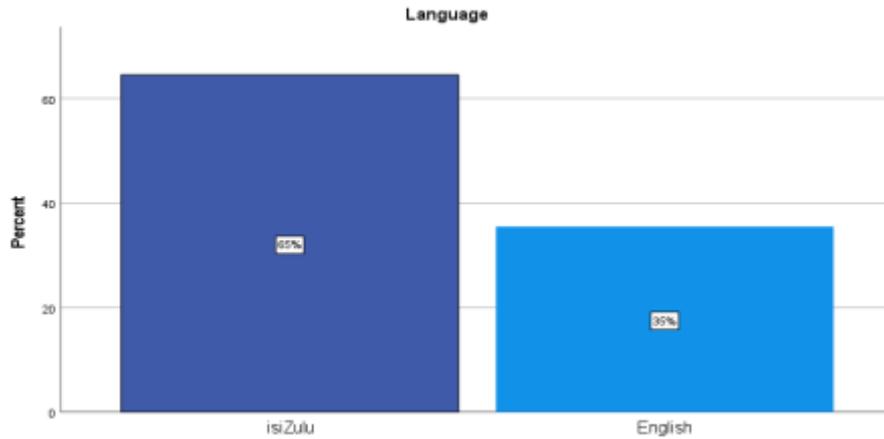
Figure 2: Languages spoken by participants

Figure 2 shows that the majority of the participants are isiZulu language speakers, 65%, and the rest of the participants speak English, and make up 35%. South Africa has a significant number of languages, which include isiZulu, Afrikaans, English, isiXhosa, isiNdebele, Sesotho, Sesotho sa Leboa, Setswana, Tshivenda, siSwati, Xitsonga. As a home language, IsiZulu, is spoken by a quarter of the population (23%) and the English language is spoken by 10% of the population (South African Gateway, 2018).
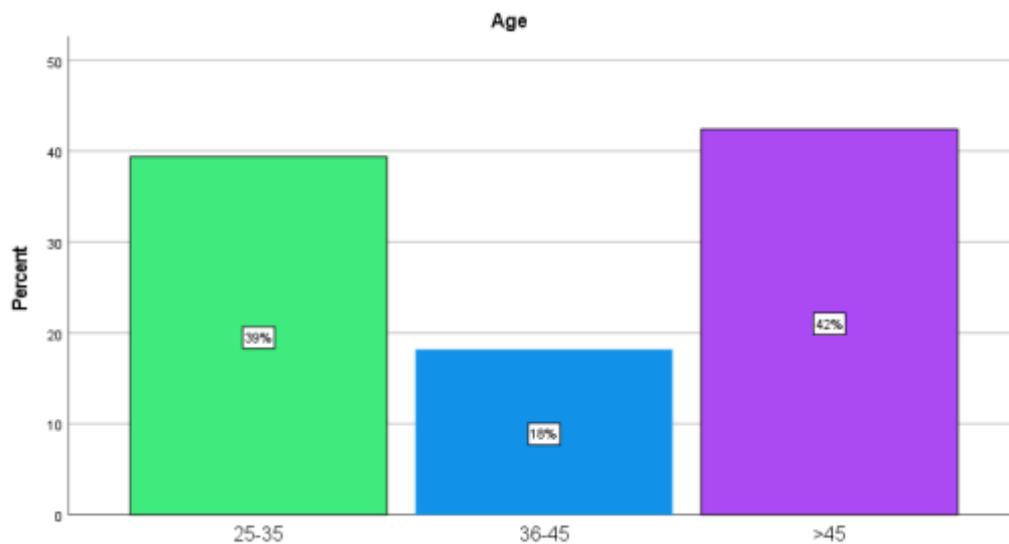
Figure 3: Age groupings of participants
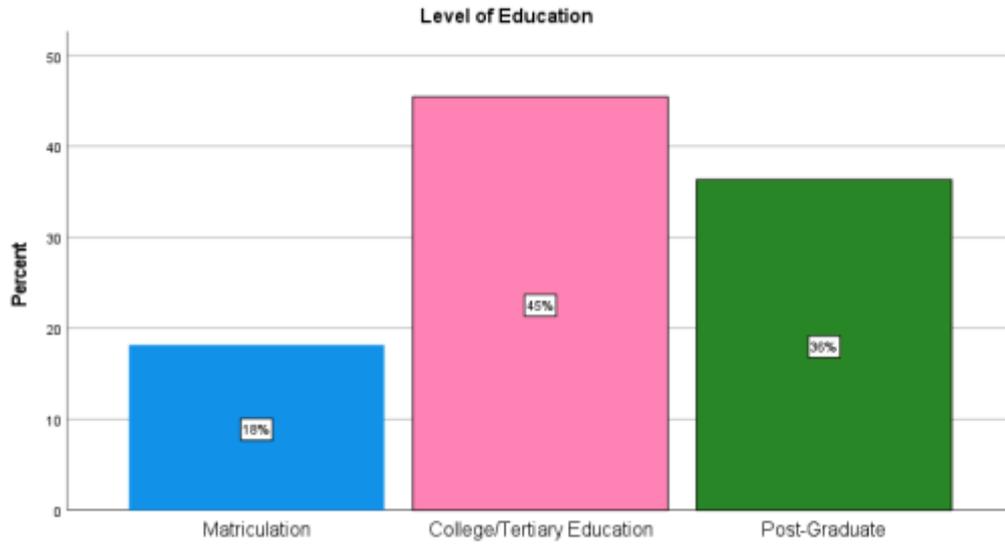
Level of Education

Figure 4: Level of Education of participants

Figure 3 and Figure 4 shows that the majority of participants Figure 3 shows that the majority of the participants were 45 years and older, at 42% and most had a college or tertiary education (45%), and 36% of the respondents had a postgraduate level education. Below (Figure 5), shows that the majority of the participants had formal film training in media studies, animation or related fields (70%).
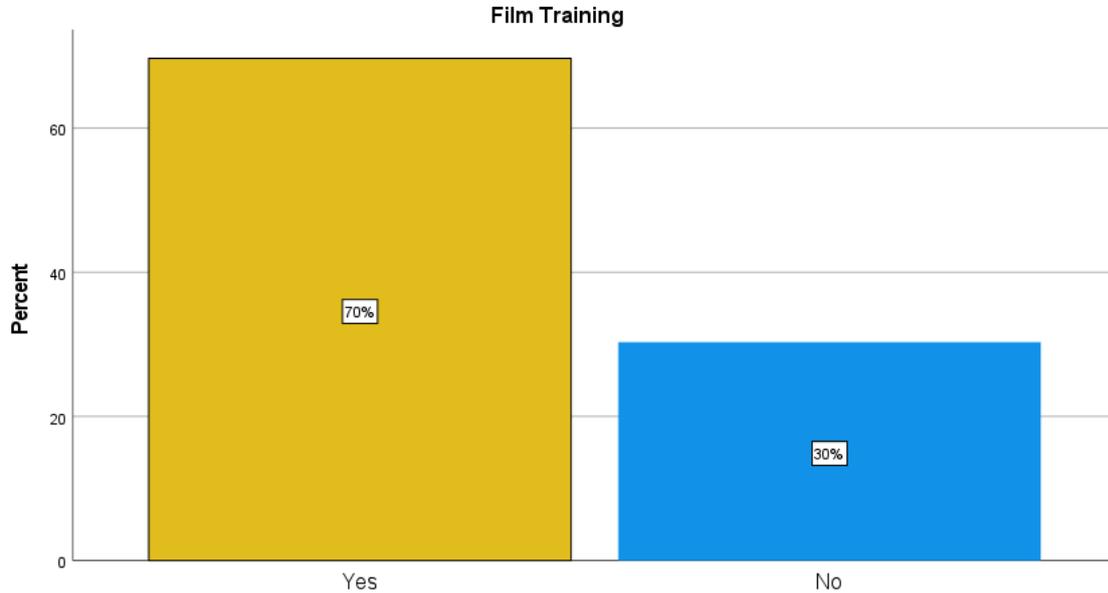
Film Training

Figure 5: Film training of participants

4.2. Emerging threats in using online platforms to share film content

The majority of alluded to not being certain if there are emerging threats in using online platforms to share film content. Figure 6 shows the distribution of perceived threats in using online platforms. Majority of the participants(45 %), indicate that they have not come across any form of piracy. The distribution on possible threats is still significant, as 18% of the participants claim to have encountered online file-sharing of intellectual property, and 15 % have lost significant revenue, if their work is shared on public online networks, such as YouTube.

When asked if they are suspicious of file sharing platforms and therefore the infringement of their intellectual property, one view reflected *"It's so easy nowadays to copy/download especially with fibre. I don't think the streaming services cost a lot (good) but downloading and file sharing is so easy (bad)".* This reference to 'internet fibre' is consistent with literature regarding internet access and therefore a quicker way to access the internet and affirms that online piracy, through the Internet, is typically viewed as causing massive financial damage to the producers of film products (Yue, 2020).

A participant who identified YouTube as an intellectual property infringement stated: *"We do regular checks on YouTube to ensure that our content is not being pirated. Content providers on YouTube are banned from the platform after 3 strikes of pirating content"*. YouTube as a public domain, becomes a significant threat to filmmakers, who still need their content to generate revenue.
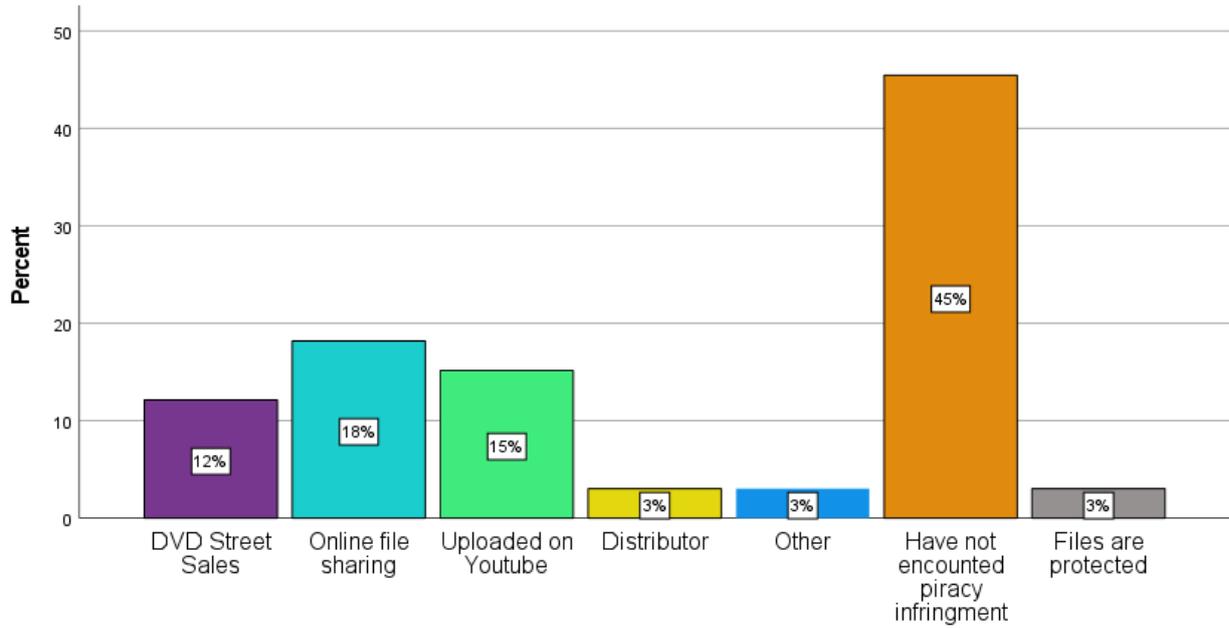
Figure 6: Ways intellectual property was infringed

Participants further answered quantitatively to the question, regarding their suspicions on file sharing infringing their intellectual property, and the results are displayed on the table below.

Table 2:Suspicious of file-sharing websites infringing on your intellectual property

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	15	45.5	45.5	45.5
	No	18	54.5	54.5	100.0
	Total	33	100.0	100.0	

The table above shows that 54,5% of the participants are not suspicious of file-sharing as a threat to their intellectual property. Some of the views that emanated suggest that priority of protecting piracy is usually afforded to big international productions. The other views suggested that, in the South African context, piracy is more prevalent through physical CDs and YouTube sometimes but with YouTube, artists can notify the organisation to take the pirated content down. The 45.5% of participants who confirmed that they are suspicious of file-sharing websites infringing on their intellectual property, provided details on how they would share content, from script, to content, and later realise their projects exposed on TV

without their knowledge. One view, regarding script, expressed: *"Talk to someone to help with script writing after that your work is stolen"*.

To understand how participants perceived emerging threats in using online platforms, copyright ownership was central to how participants protect their creative intellectual property. The table below indicates how copyright owners mobilise against piracy.

Table 3: Copyright owner and mobilising against piracy

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Public Announcements Service	7	21.2	38.9	38.9
	Report to Law enforcement	11	33.3	61.1	100.0
	Total	18	54.5	100.0	
Missing	System	15	45.5		
Total		33	100.0		

45% (15/33) of the participants did not respond to this question, regarding steps they take to report piracy. However, eighteen of the thirty-three (18/33), the majority, indicated that they report to law enforcement in the event of encountering piracy. This confirms literature on how the FPB works closely with law enforcement, and through programmes like the Web Rangers, the FBP over the years, have conducted raids, and collected illegal discs which cost millions of street value. These illegal items are confiscated and destroyed (FPB, 2019 report). In order to measure piracy threats, a scale with ten statements related to piracy was presented, and participants had to make decisions to strongly agree (measured at 5); Agree (measured at 4); neutral (measured at 3); Disagree (measured at 2) and lastly to Strongly disagree (measured at 1).

Table 4: File sharing is common in South Africa

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	3.0	3.0	3.0
	Disagree	2	6.1	6.1	9.1
	Neutral	8	24.2	24.2	33.3

	Agree	11	33.3	33.3	66.7
	Strongly Agree	11	33.3	33.3	100.0
	Total	33	100.0	100.0	

Majority of the participants agreed that file sharing is common in South Africa. This is consistent with literature that, considering the rapid pace of new technologies and the need for the development of legal provisions to curb the spread of illegal file sharing (Baloyi, 2020).

Table 5: Pirating of Movies from the Internet is common in South Africa

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Neutral	7	21.2	21.2	21.2
	Agree	10	30.3	30.3	51.5
	Strongly Agree	16	48.5	48.5	100.0
	Total	33	100.0	100.0	

Majority of the participants strongly agree that piracy of movies from the internet is common in South Africa. These results are consistent with literature, especially as piracy is noted as a worldwide phenomenon, where known threats of online piracy indicate that piracy accounts for approximately 42% of all online transactions (Sudler, 2013). As a result, literature also confirms that many countries seek solutions to curb the spread of different forms of piracy. South Africa, along with countries such as Australia, China, Japan, Malawi, Nigeria, and the United States, have joined the World trade Organisation, as part of the TRIPS, to establish minimum standards and appropriate legal action to ensure that the intellectual property of individuals from the creative/film industries are protected from illegal piracy (Bilstein, 2010).

Table 6: Pirating of movies from the Internet less serious offence than purchasing physical pirated DVDs

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	8	24.2	25.0	25.0
	Disagree	7	21.2	21.9	46.9
	Neutral	7	21.2	21.9	68.8
	Agree	8	24.2	25.0	93.8

	Strongly Agree	2	6.1	6.3	100.0
	Total	32	97.0	100.0	
Missing	System	1	3.0		
Total		33	100.0		

The statement comparing the seriousness of internet piracy and physical pirated DVDs aimed to gain a perspective on how participants perceived the threat of online piracy, over the already existing and pervasive physical piracy of creative content. The results on table 5, show that only 6 % of the participants strongly believe that piracy of films via the internet is less serious than the physical piracy, through DVDs or CDs. The majority of the participants at 25%, show that they agree, with the statement, on internet piracy being a lesser offence than physical piracy. Literature supports this disparity, where pirated movie sales are reported to account for 60% of the DVD market (Bilstein, 2010). This ultimately confirms that the South African market fails to meet mandated levels of copyright protection under the agreement on TRIPS. The data also indicates that piracy remains pervasive and threats develop at the same pace as the developing technology.

Table 7: Websites that illegally share audio-visual files are a threat to South African Film Industry

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	2	6.1	6.1	6.1
	Disagree	3	9.1	9.1	15.2
	Neutral	4	12.1	12.1	27.3
	Agree	14	42.4	42.4	69.7
	Strongly Agree	10	30.3	30.3	100.0
	Total	33	100.0	100.0	

Considering websites that illegally share audio-visual files in the South African context, table 6 shows that the majority of participants agree (42%) that this is a prevalent issue and a threat to the country's film industry. Literature suggests that the discourse on piracy is twofold. On the one hand, piracy is an act of liberation for those who would not have access funds to purchase films at cost price or pay the full amount for Video on-demand platforms. On the other hand, piracy is fundamentally an illegal act that is punishable by law. Piracy is also noted

as a significant contributor to the negative economic impact, and literature asserts that the existence of piracy, and the lack of laws and policies against this phenomenon, contributes to the culture of corruption, sustained by the criminal activities of illegal file sharing. Literature specific to the South African context, regarding file sharing, considers that the practice of file sharing is embedded in racial and gendered exclusion and inequalities that inform the history of ownership of tangible and intangible property (Haupt, 2014). This history therefore, suggests that piracy is an expression of politics of resistance to racial disadvantages, specifically social practices that are deeply embedded within the lived reality of community members (Bosch, 2010). The suggestion here indicates that, unless socio-economic issues are not addressed, to curb inequalities of ownership and access, piracy remains a threat, as illegalities occur as a form of resistance for communities without access to ownership of leisure content. Therefore, the majority of participants (42%) agreeing that website file sharing is a threat to the South African film industry affirms the prevalence of piracy in South Africa.

Table 8: Digital piracy has become common in South Africa

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	3.0	3.0	3.0
	Disagree	3	9.1	9.1	12.1
	Neutral	9	27.3	27.3	39.4
	Agree	12	36.4	36.4	75.8
	Strongly Agree	8	24.2	24.2	100.0
	Total	33	100.0	100.0	

Digital piracy broadly speaks to the advanced technology that is sustained through digital platforms, through the use of internet and digital technologies. The results in table 7 responding to the statement of digital piracy as common in South Africa, show that 36% of the participants believe digital piracy is common. Literature also supports this finding, as online piracy is noted to negatively impact distribution networks between the digital content creator and their targeted consumers. Table 7 also indicates a significant number of participants (27%), who are neutral regarding this issue of digital piracy. This result can be interpreted to suggest that participants consider digital platforms like YouTube, have significant protection against unauthorised copying of online content. YouTube as an accessible file-sharing space

resolves illegal sharing of content, by terminating the accounts of those sharing unauthorised content. Suggested steps to curb digital piracy, as outlined in the literature, affirms the prevalence of digital piracy. The increased pace of technology and access to the internet, is also a significant contributor to the ease of digital piracy. Literature suggests DRM and forensic watermarking solutions, which can also combat post-decryption piracy. Lastly, literature further suggests that to mitigate and combat piracy at digital level, is currently at the content owners' efforts (Lam, 2019).

Table 9: Online piracy threatens the sustainable development of creative industries

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	3.0	3.0	3.0
	Disagree	2	6.1	6.1	9.1
	Neutral	6	18.2	18.2	27.3
	Agree	9	27.3	27.3	54.5
	Strongly Agree	15	45.5	45.5	100.0
	Total	33	100.0	100.0	

Table 9 results show that 45 % of the participants strongly agree and believe that online piracy threatens the sustainable development of creative industries. Considering the discourse within literature from a consumption perspective, where legal access to online content is considered a luxury- these results are consistent with literature on emerging online content markets and the high rate of piracy. As an emerging market, the KwaZulu-Natal film industry therefore has a likelihood to experience online piracy, and this ultimately would threaten the creative film industry in the province.

Table 10:Counterfeited films are prevalent in South Africa

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	1	3.0	3.0	3.0
	Neutral	13	39.4	39.4	42.4

Agree	12	36.4	36.4	78.8
Strongly Agree	7	21.2	21.2	100.0
Total	33	100.0	100.0	

Table 10 shows that the majority of the participants, 39%, were neutral regarding counterfeited films as prevalent in South Africa. This is consistent with figure 6, where the majority of participants indicated that they had not encountered intellectual property infringement. The inconsistency with these statistics is that there is a large perception (45% - see Table 9), on threats of piracy (especially online), but on the ground, participants who participated in this study, have not experienced any illegalities of their creative film content. The neutral value could also allude to being sure of the extent of counterfeited films in the South African context. Literature was also scarce on the issue, however the FBP reports were the only source that confirmed acting against individuals who are found with physical CDs and DVDs that have counterfeited content.

Table 11: Piracy is good as it provides access to content for the poor

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	9	27.3	27.3	27.3
	Disagree	7	21.2	21.2	48.5
	Neutral	7	21.2	21.2	69.7
	Agree	5	15.2	15.2	84.8
	Strongly Agree	5	15.2	15.2	100.0
	Total	33	100.0	100.0	

Table 11 shows that 27% of participants strongly disagree piracy provides access to content for the poor, 10/33 of the participants, either agree (15%) or strongly agree (15%) to the statement that piracy provides access to the poor. This is significant and is well supported by literature, where piracy as a political form of resistance, exists in emerging market countries, especially as content is usually a luxury that the majority of society do not have access to. The neutral participants perhaps are conflicted as they need to generate revenue from their

content, or they do not perceive piracy as a threat to them, but more of a threat to large, international productions.

Table 12: Piracy is a form of promotion for film productions

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagree	11	33.3	33.3	33.3
	Disagree	6	18.2	18.2	51.5
	Neutral	5	15.2	15.2	66.7
	Agree	5	15.2	15.2	81.8
	Strongly Agree	6	18.2	18.2	100.0
	Total	33	100.0	100.0	

Table 12 shows the majority of the participants, 33%, strongly disagree with the statement that piracy is a form of promoting film productions. This is also consistent with literature, where international production uses the promotion effect to build word-of-mouth communication, as a process to promote the film outside of authorised distribution platforms. In the African context, an example of this is found to have established the Nollywood film industry, where different forms of piracy, grew the spread and promotion of Nollywood content. In the context of South Africa, the film industry is still growing, and to sustain the development of creative industries, and upholding international agreements for the protection of intellectual property (TRIPS), and specifically film, literature suggests that any form of piracy is frowned upon, as it risks the economic growth that the film industry has to potential to contribute.

4.3. The prevalence of the illegal activities of online content in KZN [and SA]

To investigate the prevalence of illegal activities related to the selling of online content in the South African film industry, this study investigated issues surrounding copyright ownership to link with how film as a creative industry output is threatened by illegal activities related to piracy. Literature suggests that before online or digital piracy, physical piracy remains pervasive and permeates the creative industry market with counterfeited items.

Table 13: Is your work distributed on DVD to generate sales

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	18	54.5	54.5	54.5
	No	15	45.5	45.5	100.0
	Total	33	100.0	100.0	

The question posed to the study participants, seeking information on whether they still produce and distribute their film on CD/ DVD, indicates that 18/30 (54 %), the majority of the participants still use the distribution method. Literature further supports that distribution for emerging film markets relies on physical distribution.

With technological advancement, more filmmakers are also starting to seek digital and online platforms to distribute their content. Table 14 below shows the different platforms that participants in this study indicated to have used as platforms for their content. 20/33 (61 %) of the participants responded to this question. This indicates that YouTube at 18% is the most prominent online platform, where film content producers distribute their work. Bitmax (at 9%) and a combination of Netflix, Showmax and Paramount (9%), account for 18% of preferred online distribution platforms (see Table 14 below).

Table 14: What Online platform are you more likely to distribute your content on?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Youtube	6	18.2	30.0	30.0
	Google	1	3.0	5.0	35.0
	Vimeo	1	3.0	5.0	40.0
	Bitmax	3	9.1	15.0	55.0
	Vice.com	2	6.1	10.0	65.0
	VOD	1	3.0	5.0	70.0
	Roblox	1	3.0	5.0	75.0
	Amazon Prime	1	3.0	5.0	80.0
	Combination: Netflix, Showmax, Paramount	3	9.1	15.0	95.0
	Combination: KweliTV, Showmax	1	3.0	5.0	100.0
	Total	20	60.6	100.0	
Missing	System	13	39.4		
Total		33	100.0		

Literature with regards to the future of digital and online film, shows that there is a significant disparity to access to digital culture, and ICT structures, that places challenges for significant growth of online and audio-visual in South African context (ITU, 2021). The inequalities that are highlighted in the literature consider tangible and intangible cases of piracy (Haupt, 2014). Online specifically falls within intangible piracy, however as technology advances, ways to curb online piracy are also becoming available. Literature suggests that current known threats of online piracy can be dealt with tagging technologies, providing sufficient laws and copyright protections for films, which will allow for tracking unauthorised online sharing of content (Gupta, 2017; Mariátegui, 2013). Literature also suggests that online user-behaviour and levels of digital culture are two ways to keep track of suspicious downloading of copyrighted content.

Chapter 5: Recommendations

This section draws recommendations from the in-depth literature review as well as the primary data analysed. There is a strong consensus that copyright law needs to improve, as this will be the foundation to curb any form of piracy. Technology to curb piracy should advance as quickly as other ICTs advance. A significant number of participants alluded to how to improve technology and suggested: The digital and online environment are considered by participants as areas that need to improve for those who come from disadvantaged socio-economic backgrounds. Participants in this study, confirms what literature states about access to the internet as a factor that might influence illegal online piracy, as those without access to internet and the luxury of films circulating, usually rely on illegal access. Participants suggest that the digital culture and access to the internet would need to improve, and

> *"clean the internet and the street, have a sort of family for the creative industry and have cinema's in townships at affordable rates plus easy access to the internet in townships and rural areas for people to enjoy films online platforms such as Netflix and Showmax".*
> *"Stronger online security and hefty fines for such illegalities"*
> *"Create password for someone to assess your work to sign in or get a notification"*
> *"Increased usage of privacy and security software"*

Law enforcement and policing structures are also recommended as one way to curb piracy. The process to do so suggested by participants, range from providing education and training platforms for producers of content through audience awareness. Also, to foster a collaborative and participatory way to protect against copyright infringement and piracy. Participants elaborate:

> *"It's a collaborative effort from audience development about their contributions to the sector by purchasing content the right way, Government intervention with IT to block piracy sites in our country, Law enforcement to arrest people who sell pirated content. Government subsidies or support the industry to provide easy and accessible legal platforms for audiences to access local content".*
> *"Training producers in the various antipiracy technologies".*

"Provide support and education to those trading with these products and weigh in hard on those who do not comply."

"More research on and sophisticated software programs"

Summary of recommendations in addressing the emerging threats to online platforms for filmmakers:

- 🎥 Copyright laws should be clear and specific for film content.

- 🎥 Education and training should be offered to content producers, as well as audiences, to ensure that society is informed and makes informed decisions when purchasing or downloading content. So, in the case of taking a decision to purchase any form of pirated content, this would be an intentional act to infringe and engage in unauthorised consumption of content.

- 🎥 Access to ICTs to cultivate a digital environment, where internet access is affordable for all.

- 🎥 Better law enforcement structures, including a specific police unit that deals specifically with copyright infringement of creative industry outputs like film. This recommendation is extended to include specific punishable actions that policy and law enforcement should implement to curb any form of piracy.

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