[GB] TV Links Acquitted of Copyright Theft Charges

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In October 2007, TV Links, a website, was raided and closed down and its administrator arrested. The site had been set up to offer links to other sites hosting films, TV programmes and music videos. It itself was funded by advertising income.

During October 2007, Gloucestershire County Council trading standards raided the premises of the administrator, acting in conjunction with investigators from FACT (The Federation against Copyright Theft) and the Gloucestershire Police. It was alleged that the site facilitated or induced copyright infringement by providing links to illegal material hosted by third-party websites. The material, it was claimed, was either being illegally distributed or had been illegally camcorded and uploaded onto other websites.

FACT (a private limited company) brought a private prosecution against TV Links' managers claiming conspiracy to defraud and copyright allegations.

In point of fact, the key legal issue, which with this case was considered by a Court in the UK for the first time, was "whether a linking site, which did not host video material, could benefit from the defence afforded by regulation 17 (mere conduit) of the Electronic Commerce (EC Directive) Regulations 2002 No. 2013."

Regulation 17 on mere conduit provides:

"(1) Where an information society service is provided which consists of the transmission in a communication network of information provided by a recipient of the service or the provision of access to a communication network, the service provider (if he otherwise would) shall not be liable for damages or for any other pecuniary remedy or for any criminal sanction as a result of that transmission where the service provider -

(a) did not initiate the transmission;

(b) did not select the receiver of the transmission; and

(c) did not select or modify the information contained in the transmission.

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(2) The acts of transmission and of provision of access referred to in paragraph (1) include the automatic, intermediate and transient storage of the information transmitted where:

(a) this takes place for the sole purpose of carrying out the transmission in the communication network, and

(b) the information is not stored for any period longer than is reasonably necessary for the transmission."

The Judge also ruled that the allegations under the Copyright Designs and Patents Act failed because there was no evidence that TV-Links made available to the public the films and shows they linked to.

The Bristol Crown Court dismissed the allegations and "awarded the corporate private prosecutor costs to be paid from the public purse, despite the private nature of the prosecution and the successful dismissal application."

The matter may not be concluded yet, as an appeal is being sought by way of a voluntary bill of indictment.

Electronic Commerce (EC Directive) Regulations 2002

http://www.opsi.gov.uk/si/si2002/20022013.htm

R v Rock and Overton, Gloucester Crown Court, (6th February 2010)

http://www.obs.coe.int/oea_publ/legal/reginavsrockoverton.pdf

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