



**CREATIVE COALITION CAMPAIGN
RESPONSE TO OFCOM CONSUTATION
ONLINE INFRINGEMENT OF COPYRIGHT AND THE DIGITAL ECOMONY
ACT 2010
DRAFT INITIAL OBLIGATIONS CODE
JULY 2010**



The Creative Coalition Campaign (CCC) welcomes the opportunity to respond to the Ofcom consultation: Online Infringement of Copyright and the Digital Economy Act 2010 Draft Initial Obligations Code.

By way of background, the Creative Coalition Campaign is a unique partnership of trade unions representing workers in the creative industries and organisations representing employers in the publishing, sports, TV, music, and film sectors. It was formed in August 2009 with the aim of articulating the member organisations' shared view on the threat that online copyright infringement poses to jobs in the creative industries and the measures required to tackle that infringement. The CCC was an active participant in the debate around the passage of the Digital Economy Act, the legislation that gave rise to the current consultation.

The membership of the CCC includes the following organisations: The Association of British Orchestras, The Alliance Against IP Theft, BECS, BECTU, BPI, British Video Association, The Cinema Exhibitors' Association Limited, Design and Artists Copyright Society, Directors UK, Entertainment Retailers Association, Equity, Federation Against Copyright Theft, Federation of Entertainment Unions, Film Distributors' Association, Independent Film and Television Alliance, Motion Picture Association, Musicians Union, Pact, Personal Managers Association, PPL, Premier League, The Publishers Association, UK Screen Association and Unite. It is also supported by the TUC. Further details can be found here – www.creativecoalitioncampaign.org.uk

This submission emphasises a small number of areas in the draft code that we feel imperfectly address the needs of the system and therefore risks potentially harming its effectiveness in delivering the objectives that ministers and opposition spokespeople have supported for many years; a significant reduction (in the order of 70%+) in online copyright infringement.

Where there are questions in the consultation document that are not addressed here, it should be noted that the CCC lends its full support to the more detailed submissions made by the Alliance Against IP Theft, the Motion Picture Association, PACT and other rights holder representative bodies.

We have listed below specific points of clarification that the CCC wishes to make in relation to this consultation:

- **Question 3.1:** - It is impossible for rights holders to estimate the number of copyright infringement reports (CIRs) that will be generated without the rights holders knowing how much each CIR will cost. This therefore relates to the issue of costs, on which the CCC has made reps to the BIS consultation. Small rights holders will be excluded if they can't estimate their number of CIRs – a way has to be found to include them otherwise the government's policy objective will not be achieved.





- **Question 3.3:** - All ISPs should be within the scope of the code, with some temporarily exempted due to having too few customers to worry about. If they are not all included from the start then fresh EU clearance will be required each time one needs to be added. Mobile ISPs should likewise be included.
- **Question 3:6** – There are definitional problems about what a subscriber is and what a communications provider is. Open Wi-Fi places like cafes and libraries should be treated as subscribers (responsible for all activity on that individual IP address) rather than as providers (who may then need to send on the notices to the individuals who are responsible for the online copyright infringement). There are examples of some universities that accept this responsibility and then block access for their users to specific protocols (like Bit Torrent).
- **Question 4.1:** - Yes, we agree with the proposed content of CIRs.
- **Question 4.3:** - The Act said a month, but 10 days is considered by the CCC to be a sensible timeframe. Most rights holders think they'll send them much sooner than 10 days.
- **Question 5.1:** - The CCC agrees with the specific grounds for declaring a CIR invalid. However in the draft code there's a phrase: 'some other reason...in the reasonable opinion of the Qualifying ISP'. The CCC believes that this needs to be removed from the final code before it is laid before parliament.
- **Question 7.1:** - There are currently three grounds of appeal in the DEA. In the draft code a fourth - extremely broad one - has been added: 'any other ground'. The CCC also believes that this should be removed.

As explained above, we have commented on some of the issues within the draft code of which our members all share a strong view. We look forward to meeting with Ofcom officials next month to discuss these and other matters. We would also be happy to clarify our position on the matters covered here in the interim.



Film Distributors' Association



THE PUBLISHERS ASSOCIATION