

Title:

Ms

Forename:

Roisin

Surname:

Gwyer

Representing:

Self

Organisation (if applicable):

University of Portsmouth

What do you want Ofcom to keep confidential?:

Keep nothing confidential

If you want part of your response kept confidential, which parts?:

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

Ofcom should only publish this response after the consultation has ended:

You may publish my response on receipt

Additional comments:

The University of Portsmouth fully supports the rights of copyright holders to enjoy fair reward and recognition for the content they produce. To this end we already have effective policies for reducing copyright infringement as well as a large investment in making students and staff aware of copyright in a digital age. Our Learning, Teaching and Assessment Strategy, for example, includes a commitment to produce 'information literate' graduates. Information Literacy has been defined by the Chartered Institute of Library and Information Professionals as

‘...knowing when and why you need information, where to find it, and how to evaluate, use and communicate it in an ethical manner’. Ethical use of information includes the need to abide by copyright regulations.

Whilst we are supportive we are also concerned that the Digital Economy Act will have a detrimental effect on our institution. In particular there is a need to clarify whether universities will be treated as ‘Subscribers’, ‘ISPs’ or ‘Communications Providers’.

If described as ‘Subscribers’ this would be highly disruptive of our research and education activities. The necessary preventative measures which would need to be deployed would be totally unrealistic in a University setting. We have robust regulations in place for all internet users which they are required to agree with on issue of their username and password We have a disciplinary code in place for use against those who infringe copyright (for example students who plagiarise) with measures which include suspension of access to the University’s network or even suspension of studies altogether. We believe this is typical of the good practice throughout the sector and better addresses our situation than applying solutions more appropriate to domestic situations.

We feel that logic, practicality, and effectiveness all indicate that our institutions should be classed as ISPs or communications providers. Furthermore, we understand that similar legislation passed in France specifically excludes universities.

The University of Portsmouth agrees with the response made by JANET (UK) which can be found at : <http://www.ja.net/development/legal-and-regulatory/regulated-activities/related-regulatory-documents/Ofcom-DEA-Code-response.html>

Response made on behalf of :

Professor John Craven
Vice Chancellor
University of Portsmouth

Andrew Minter
Director of Information Services
University of Portsmouth

Roisin Gwyer
University Librarian and Copyright Co-ordinator
University of Portsmouth

Question 3.1: Do you agree that Copyright Owners should only be able to take advantage of the online copyright infringement procedures set out in the DEA and the Code where they have met their obligations under the Secretary of State’s Order under section 124 of the 2003 Act? Please provide supporting arguments.:

Question 3.2: Is two months an appropriate lead time for the purposes of planning ISP and Copyright Owner activity in a given notification period? If a notification period is significantly more or less than a year, how should the lead time be varied? Please provide supporting evidence of the benefits of an alternative lead time.:

Question 3.3: Do you agree with Ofcom's approach to the application of the Code to ISPs? If not, what alternative approach would you propose? Can you provide evidence in support of any alternative you propose?:

Question 3.4: Do you agree with the proposed qualification criteria for the first notification period under the Code, and the consequences for coverage of the ISP market, appropriate? If not, what alternative approaches would you propose? Can you provide evidence in support of any alternative you propose?:

Question 3.5: Do you agree with Ofcom's approach to the application of the 2003 Act to ISPs outside the initial definition of Qualifying ISP? If you favour an alternative approach, can you provide detail and supporting evidence for that approach?:

Question 3.6: Do you agree with Ofcom's approach to the application of the Act to subscribers and communications providers? If you favour alternative approaches, can you provide detail and supporting evidence for those approaches?:

Question 4.1: Do you agree with the proposed content of CIRs? If not, what do you think should be included or excluded, providing supporting evidence in each case?:

Question 4.2: Do you agree with our proposal to use a quality assurance approach to address the accuracy and robustness of evidence gathering? If you believe that an alternative approach would be more appropriate please explain, providing supporting evidence.:

Question 4.3: Do you agree that it is appropriate for Copyright Owners to be required to send CIRs within 10 working days of evidence being gathered? If not, what time period do you believe to be appropriate and why?:

Question 5.1: Do you agree with our proposals for the treatment of invalid CIRs? If you favour an alternative approach, please provide supporting arguments.:

Question 5.2: Do you agree with our proposal to use a quality assurance approach to address the accuracy and robustness of subscriber identification? If not, please give reasons. If you believe that an alternative approach would be more appropriate please explain, providing supporting evidence.:

Question 5.3: Do you agree with our proposals for the notification process? If not, please give reasons. If you favour an alternative approach, please provide supporting arguments. :

Question 5.4: Do you believe we should add any additional requirements into the draft code for the content of the notifications? If so, can you provide evidence as to the benefits of adding those proposed additional requirements? Do you have any comments on the draft illustrative notification (cover letters and information sheet) in Annex 6?:

Question 6.1: Do you agree with the threshold we are proposing? Do you agree with the frequency with which Copyright Owners may make requests? If not, please provide reasons. If you favour an alternative approach, please provide supporting evidence for that approach. :

Question 7.1: Do you agree with Ofcom's approach to subscriber appeals in the Code? If not, please provide reasons. If you would like to propose an alternative approach, please provide supporting evidence on the benefits of that approach.:

Question 8.1: Do you agree with Ofcom's approach to administration, enforcement, dispute resolution and information gathering in the Code? If not, please provide reasons. If you favour an alternative approach, please provide supporting evidence on the benefits of that approach.: