

**Representing:**

Organisation

**Organisation (if applicable):**

Succubus Films

**What do you want Ofcom to keep confidential?:**

Keep name 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:**

**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.:**

No, the act is badly written and unfair to the ISP's and consumers. As such it needs to be re-written or repealed.

**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.:**

There is no appropriate lead time. This act is badly constructed and needs a total re-think.

**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?:**

No.

**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?:**

No.

**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?:**

No. The act MUST apply to every ISP for it to be fair and just. Leaving out smaller ISP's will lead to a severe market distortion.

**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?:**

NO. The act is badly written, unbalanced, unjust and unfair. Rights holders should collect their own data regarding infringement. This would prevent an increase in costs for the communications providers and thus subscribers at zero benefit to either party.

**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?:**

No, since subscribers are assumed to be guilty based on so little evidence. An IP address is simply not specific enough to warrant the issue of a CIR. MAC address info would need to be provided as supporting evidence.

**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.:**

Current thinking is that QA is an outmoded approach for larger data sets. More modern and technologically appropriate methods, such as base packet analysis should be used on case by case basis instead.

**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?:**

CIR's absolutely need to sent out within 24 hours of evidence being gathered. This is to the great benefit of all parties involved.

**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.:**

No. Invaile CIR's should be accompanied with a £50,000 fine issued to the copyright holders. This should be split equally between the ISP (to cover data monitoring costs) and the falsely accused.

**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.:**

No. The QA cannot in this case be properly applied as there is no way of distinguishing between individual computers at a specific IP address/range. More detailed data would need to be logged (eg MAC address). This could easily be performed by issuing all subscribers their own data logging units. This could then drip feed the data back at median bandwidth usage hours.

**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. :**

No. The proposed notification process is far too costly and a waste of finite resources. E-mail or text messaging should be used as commitment to CO2 reduction.

**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?:**

Yes. The MAC address of a supposed infringement must be captured. This would allow the notification to be sent to the owner of the specific machine in question, rather than simply blaming the bill payer as the code currently does.

**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. :**

No. Copyright holders should be able to make no more than one request per year. Otherwise the ISP's will be forced to suffer unnecessary bureaucratic costs.

**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.:**

No. The subscriber must be considered innocent until a full case can be specifically brought against them. It must not be blindly issued to the person who pays the bill at a specific IP address.

**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.:**

No. It needs to be a lot clearer for all parties involved. The current draft Code offers a woeful lack of clarity regarding these procedures.