

BRITISH FILM INSTITUTE

Response to:

Online Infringement of Copyright and the Digital Economy Act 2010 –

**Notice of Ofcom's proposal to make by order a code for
regulating the initial obligations**

July 2012

1. The British Film Institute (BFI) is the lead organisation for film in the UK. Founded in 1933, it has always been a champion of film culture in the UK but in its new wider role, it has the additional purpose of supporting and helping to develop the entire film sector and is a distributor of Lottery funds for Good Causes.
2. The BFI strongly supports the provisions in the Digital Economy Act aimed at significantly reducing online copyright infringement. We welcome the opportunity to respond to Ofcom's consultation on the Initial Obligations Code. The UK Film Council which was previously the lead body for film responded to Ofcom's earlier consultation on the Code.¹ We note that the current consultation is focussed on a number of changes to the Code.
3. As an organisation which invests public money in the production, distribution, exhibition and archiving of films, the BFI is keenly aware that copyright infringement and theft is damaging to the interests of citizens generally as well as to rights-holders and the creative community. It is crucial that rights holders are able to make their films available to audiences secure in the knowledge that there is a robust legal framework in place which is designed to significantly reduce copyright infringement and theft – both online and offline.
4. We broadly welcome the revised Code. We note however the proposal to exclude mobile operators from the Code – we are concerned that in the light of the changing way in which audiences access films, for example by streaming or downloading them on to tablet devices, and the increasing availability of high-speed broadband for mobile, that this will create a loophole which persistent infringers will exploit.
5. We share the concerns expressed by Universities UK and others that because the Digital Economy Act treats libraries, schools, colleges and universities in the same way as private individuals, they could be held responsible for individual acts of infringement which they are effectively powerless to prevent. This affects libraries outside educational institutions as well – the BFI library for example. For such institutions, despite the “acceptable use” policies and filtering mechanisms which they have in place, the scale of monitoring needed to ensure complete compliance is extremely large because of the number of users involved.
6. The BFI strongly support the provisions in the Act which are designed to encourage changes in consumer behaviour in other ways – through education and the development and promotion of legal services by industry - recognising that enforcement alone is unlikely to bring about a sufficient reduction in copyright infringement.
7. A reduction in such infringements will benefit the UK's creative economy enhance its global competitiveness by safeguarding existing jobs and incentivise investment across the digital content businesses. It will enable film culture to prosper by helping new film services, offering a wide range of films, to flourish.

¹ http://industry.bfi.org.uk/media/pdf/h/c/Ofcom_Code-online_copyright_infringement_Final.pdf