

Title:

Mr

Forename:

Andrew

Surname:

Bold

Representing:

Self

Organisation (if applicable):

What do you want Ofcom to keep confidential?:

Keep part of the response confidential

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

Please obscure email address in any publication.

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.:

Copyright owners should shoulder the full burden of both cost and effort when making infringement notices.

Anything less would result in ISPs passing on any and all cost increases to consumers. This is hardly fair when this only supports a small, albeit very vocal, group of businesses.

Infringement notices must include full detailed evidence of the alleged infringement. Anything less would be nothing more than schoolyard tales.

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.:

No comment.

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?:

I would like to see the same amount of urgency applied to copyright owners as was applied to getting this Act applied in parliament. Using that scale, 12 hours seems appropriate.

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.:

As a full time professional system administrator, I am aware that the quality of the subscriber identification evidence at the technical level will be lacking.

It is easy to fake an IP address. It is easy to fake a MAC address. Using a secured WiFi access point illicitly and without permission is trivial.

If a subscriber cannot be fully and robustly identified then that identification should be distrusted until fully proven.

It would also be helpful if you could describe your quality assurance approach.

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. :

You should drop notification by email. Email is not reliable.

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.:

There must be no cost to the accused.

I understand there to be a cost element to making an appeal. Appeals should be gratis with the Court applying any financial requirements on the accused once they have been fully convicted.

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.:

We are still lacking details on what "technical measures" will be applied once the letter writing campaign that leads up to the technical measures phase does, inevitably fail.

Details of these measures must be made available in order to accurately assess Ofcom's role in enforcing this Act. Failure to have these details is just one of the many problems with this Act.

(I am, of course, assuming that the level of evidence gathering on the success of the letter writing campaign will be similar to the figures justifying the creation of this Act. I.e., Major industry bodies acting on behalf of the beneficiaries of this Act will make up some figures, as they have done before. See this recent US study from the Government Accountability Office for more details:

<http://www.gao.gov/new.items/d10423.pdf>)

This is not an industry that has a good history with accuracy. I would hope that Ofcom do more than become a money gathering tool for them,