

**Representing:**

Organisation

**Organisation (if applicable):**

Coldbot Ltd

**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:**

Essentially, the proposed approach is nothing more than an attempt to force customers of ISP's to provide a subsidy to media companies.

The proposed measures will not have any positive effect or reduce piracy in any significant way. The simplest single reason for this is that people are indeed intelligent creatures and the pirates are probably more intelligent than average. As such it is nearly certain that anyone with a grain of common sense after receiving the second warning letter or at another appropriate stage will implement countermeasures such as moving to another or a smaller ISP, employing VPN or other form of encryption or some kind of technical measures to protect themselves.

In fact, proliferation of usage of strong encryption technologies, might be the only positive effect (for the public) derived from proposed code of practice.

**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?:**

I do not agree. Any organisation operating it's own Autonomous System i.e. when it has been allocated it's own AS number by RIPE shall be considered as an ISP. An example of such organisation would be Coldbot Ltd. There might be other criteria for classifying an organisation as an ISP but operating own AS must be a sufficient test on it's own.

**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?:**

The following information must be included:

- prove that the content downloaded is protected by copyright.
- prove that the content was downloaded/uploaded by the subscriber. Obviously, IP address in combination with the timestamp does not prove the identity of the downloader. Moreover, the notion that the subscriber is in some way has any obligation to conduct investigation in order to find the person who was using his

internet connection potentially unlawfully on behalf of a third party (media companies) without proper compensation is contrary to common sense.

**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.:**

Do not agree. The appeal process must be sufficiently transparent and simple. It must be funded exclusively by the media companies and be free for ISP and their subscribers. Which is only reasonable as the media companies are the only ones who perceive (probably incorrectly) that they benefit from all this mess.

**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. :**

Do not agree in principle for the reasons described in "Additional Comments"

**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.:**

Do not agree. The appeal process must be sufficiently transparent and simple. Moreover, it must be funded exclusively by the media companies and be free for ISP and their subscribers. Which is only reasonable as the media companies are the only ones who perceive (probably incorrectly) that they benefit from all this mess.

**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.:**