

Title:

Ms

Forename:

Jaci

Surname:

Brumwell

Representing:

Organisation

Organisation (if applicable):

Libraries and Information East Midland

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:

Because of uncertainty over the role of libraries in relation to the three types of organisations listed it is not possible to answer questions in the way in which they are posed, but I hope nevertheless that these comments are helpful

On behalf of Libraries and Information East Midlands (LIEM) I am grateful for the opportunity to comment on the implications of the Digital Economy Act for libraries.

LIEM is the strategic voice for libraries in the East Midlands. An organisation entirely funded by membership subscriptions it works to encourage and enable libraries of all kinds to work in partnership for the benefit of the people they serve.

Our member public, higher education and further education libraries are concerned that the Act will place at risk the provision of Internet access to the general public and to students and researchers.

We have three main concerns:

• It is unclear at present whether a library service would be characterised as a communications provider, an Internet Service Provider or a Subscriber. It is therefore difficult to predict precisely how the Act will impact on library services. There is a safeguard in so far as most libraries would be highly unlikely to have a client base of more than 400,000, but without any guarantee that this limit will not be revised downwards at some future date, uncertainty remains.

• Public libraries in particular have no commercial interest in the provision of infrastructure or content. Their role is to help achieve the Government's aspirations to give everyone access to the benefits of the information society. If this universal provision, fast becoming a valued part of the core library service is jeopardised, many thousands of people will be excluded and disadvantaged.

All libraries make strenuous and resource-intensive efforts to eliminate misuse of the Internet. These include:

Compulsory 'Acceptable Use' agreements

Comprehensive filtering systems

Random and targeted monitoring of clients' use of the Internet, with penalties for misuse

Despite these efforts it is impossible to guarantee that some clients will not engage in undesirable activity, which might include illegal file sharing.

Where it can be demonstrated that public authorities have taken steps to eliminate illegal activity, it would be unreasonable to penalise the vast majority of library users for whom free access to the Internet is a vital service.

• Our final concern revolves around the cost of compliance. It is likely that the level of monitoring required will be far greater than the random checks which are normal at present, that imposing sanctions on individual users will absorb considerable staff resources, and that defending any future legal action would entail costs which are impossible to estimate.

The principles and intentions embodied in the Act are welcomed by libraries, which take intellectual property issues very seriously. We are concerned, however, that an unintended consequence of the Act may be to fatally damage a central plank of the library's information and learning provision, unless their impartial and unique role is recognised.

Jaci Brumwell
Chair, Libraries and Information East Midlands

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.: