

Representing:

Self

Organisation (if applicable):

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:

The growth of the Internet over recent years has been phenomenal. More and more Businesses and private individuals rely on it more and more each day. Although many people argue for the complete freedom and unregulation of the internet it is patently obvious that there are many out there who are out to exploit it for their own gain, mostly at the expense of individual subscribers. It is patently obvious that there needs to be some form of regulation in some areas. Copyright infringement being one. The way it is going at the moment it is open to unscrupulous law firms, ie Davenport Lyons, ACS Law, Gallant McMillan, to take advantage of the lack of regulation and using untested methods to send letters of claim to thousands of individuals. While many of these claims will be legitimate it is obvious that many are not and the practice has been likened to speculative invoicing. IT IS VITALLY IMPORTANT THAT THE WHOLE MATTER OF COPYRIGHT INFRINGEMENT IS ADDRESSED AND REGULATED. IT CANNOT GO ON LIKE THIS. Online help or guidance in some form or another should be made available to assist users in identifying if a file is copyrighted or not . WHERE PEOPLES LIVELIHOODS ARE POSSIBLY AT STAKE, IT IS IMPORTANT THAT ANY RESTRICTIONS ON THEIR INTERNET ACTIVITY IS CONSIDERED AND BASED ON FACT.

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.:

Yes. If they want to use the law then they must adhere to that law.

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.:

? not enough information to express a view

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?:

Yes. They must be held accountable and follow set guidelines. Simply to point the finger at the subscriber is not acceptable and is shirking their responsibilities.

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?:

Yes. You need to start somewhere and have a fully agreed and workable code of practice so everyone knows the situation.

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?:

? not enough information to express a view

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?:

? not enough information to express a view

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?:

At the moment the first that an alleged copyright infringer gets is what appears to be a demand for money backed up with the threat of being taken to court by law firms such as ACS Law. A more regulated and controlled approach should be used which contains proven evidence and a laid down procedure used which is followed by all involved.

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.:

I strongly agree with this approach. The method of collecting the evidence MUST be accurate. It must be independent. It must be robust and hold up to scrutiny and it must be available for audit by an independent controlling body ie. OFCOM.

The minimum amount of a "work" required to constitute an infringement needs to be decided. Obviously 100% of a film would but a 5% download might only include the opening credits or unconnected bits of the file which may even be unplayable. An independent "Evidence Gatherer" may be an option where the copyright owners evidence could be channeled through acting as a buffer between them and the ISP's, and would also give anyone who thinks that they have been falsely accused a chance to challenge the evidence and if necessary even examine the software.

Whatever happens this unregulated mishmash of unenforceable laws we have at the moment gives unscrupulous law firms (ACS Law & Gallant McMillan to name just two) the opportunity to demand money using evidence that they alone know how it was obtained and only they know its accuracy. If this area is not regulated then many more of these firms are going to "Jump on the Bandwagon";

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?:

Yes. The earlier the better. This gives the accused the chance to examine the claim and investigate if, for example, their connection has been compromised. If it is 6 months later then if it has been compromised or there is another problem then in 6 months time the evidence or reason might be unobtainable by the user or there might be a further ^ months of avoidable illegal activity.

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.:

Yes. If they are invalid then there is no need to keep them. On the other hand, if a persistent infringer is to be punished then so should a persistent rights holder whose CIR's are repeatedly invalid.

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.:

The accuracy of the identification of the user from their address is as important as the accuracy of the evidence. It is of little use if the evidence is regulated and scrutinised if you then "get the wrong bloke". It is therefore important that how the user is identified is scrutinised it is not acceptable to leave it to the individual ISP as they will invariably say that their information is correct. Maybe there is a need to get the ISP's to work together on how best to do this. In all events it must be regulated

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. :

? not enough information to express a view

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?:

? not enough information to express a view

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. :

? not enough information to express a view

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.:

? not enough information to express a view

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.:

? not enough information to express a view