

Title:

Please select

Forename:

Toby

Surname:

Bainton

Representing:

Organisation

Organisation (if applicable):

Society of College, National and University Libraries

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:

1 SCONUL represents the directors of library and information services in virtually all the UK's institutions of higher education, and the directors of all the UK's national libraries.

2 We firmly support the response of JANET (UK). The fundamental points we emphasise are

(1) we have existing effective policies for reducing copyright infringement

(2) these would be frustrated if our institutions were classed as 'subscribers'
(3) moreover education and research would be inhibited by such a classification
(4) logic, practicality, effectiveness, and indeed the law, all indicate that our institutions should be classed as ISPs or communications providers (the latter classification receiving surprisingly little attention in the consultation)
In summary, solutions appropriate to domestic situations should not be foisted on organisations, where they would not work well.

3 We resist in the strongest terms the conclusions of paragraph 3.28 requiring proof of identity before access to the internet is permitted. For reasons of public policy for education, not to mention civil liberties in general, this is a deplorable suggestion, unauthorised by Parliament, which would actually inhibit copyright compliance.

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.:

We agree with JANET (UK)'s fuller response, for reasons of practicality

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.:

We agree with JANET (UK)'s fuller response, for reasons of practicality

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?:

We agree with JANET (UK)'s fuller response, for reasons of practicality

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?:

We agree with JANET (UK)'s fuller response, for reasons of practicality

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?:

On the whole, we agree as far as paragraph 3.27.

We strongly disagree with the conclusions of paragraph 3.28 : please see section 3 of our additional comments above. We agree with JANET (UK)'s fuller response.

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?:

No - please see section 2 of our additional comments above. We agree with JANET (UK)'s fuller response.

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?:

We agree with JANET (UK)'s fuller response, for reasons of practicality

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.:

We agree with JANET (UK)'s fuller response, in order to provide adequate safeguards for individuals.

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?:

We agree with JANET (UK)'s fuller response, for reasons of practicality

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.:

We agree with JANET (UK)'s fuller response, in order to provide adequate safeguards for individuals

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.:

We agree with JANET (UK)'s fuller response, in order to provide adequate safeguards for individuals

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. :

No - please see section 2 of our additional comments above. We agree with JANET (UK)'s fuller response.

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?:

No - please see section 2 of our additional comments above. We agree with JANET (UK)'s fuller response.

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. :

We agree with JANET (UK)'s fuller response, for reasons of practicality

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.:

We agree with JANET (UK)'s fuller response, in order to provide adequate safeguards for individuals

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.:

Yes