

Title:

Mr

Forename:

Stephen

Surname:

Pinfield

Representing:

Organisation

Organisation (if applicable):

University of Nottingham

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:

We support the response of JANET (UK). In particular, we would like to highlight the following points:

1. Higher Education Institutions already have effective policies for reducing and addressing copyright infringement.
2. These would be frustrated if Higher Education Institutions were classed as

‘subscribers’ within the terms of the Act.

3. Education and research would potentially be inhibited by such a classification as access to networked resources would be significantly impaired and institutions would incur considerable additional administrative costs.

4. We believe that the classification of Higher Education Institutions as ‘non-qualifying ISPs’ would be most consistent with the terms and intentions of the Act.

In summary, solutions obviously designed for domestic situations should not be applied to academic institutions which have well-established procedures for ensuring compliance with copyright law and other appropriate legislative requirements.

On the particular point of paragraph 3.28, we strongly disagree with the conclusion reached in that paragraph that libraries, pay-as-you-go wifi and mobile providers will in future have to collect address details from all users before allowing them to access the Internet. We consider that this goes well beyond the stated will of Parliament. In effect it would no longer be possible to access the Internet in the UK without first proving one’s identity. This major policy change (in direct contradiction of other Government policies on widening Internet access) does not seem to have been considered either in the Bill’s impact assessment or in the Parliamentary debate.

We also note that this interpretation could actually encourage providers to stop having their users agree to an Acceptable Use Policy (and, in particular, to agree to respect copyright) to avoid the burden of being classed as ISPs. This seems a perverse result of legislation to improve copyright enforcement.

We agree with the consultation paper’s conclusion (in paragraph 3.31) that the implications of the interpretation will be “challenging” for community broadband schemes, thus further damaging the Government’s objective of widening broadband access.

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 the detailed response submitted by Janet (UK).

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 the detailed response submitted by Janet (UK).

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 the detailed response submitted by Janet (UK).

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 the detailed response submitted by Janet (UK).

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?:

We agree with the detailed response submitted by Janet (UK).

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?:

We agree with the detailed response submitted by Janet (UK).

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 the detailed response submitted by Janet (UK).

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 the detailed response submitted by Janet (UK).

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 the detailed response submitted by Janet (UK).

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 the detailed response submitted by Janet (UK).

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 the detailed response submitted by Janet (UK).

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. :

We agree with the detailed response submitted by Janet (UK).

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?:

We agree with the detailed response submitted by Janet (UK).

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 the detailed response submitted by Janet (UK).

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 the detailed response submitted by Janet (UK).

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 agree with the detailed response submitted by Janet (UK).