

RECEIVED 07 APR 2010

The Rt Hon Stephen Timms MP
Minister for Digital Britain

Our ref: PD/191900
Your ref: 01101141

The Rt Hon Tessa Jowell MP
House of Commons
London
SW1A 0AA

31 March 2010

Dear Tessa,

Thank you for your letter of 17 March to Peter Mandelson, enclosing correspondence from your constituent about the Digital Economy Bill. I am replying as the matter falls within my portfolio.

The Government wants as many people as possible to enjoy all the benefits that broadband internet can bring. New technology has changed the way people access content, but we need to make sure that those who use the internet to access music, films etc pay the appropriate charge for doing so. On-line copyright infringement is a serious problem, and we have been working closely with rights holders, media companies and internet firms on practical solutions.

Everyone would prefer a voluntary rather than a regulatory solution, but it has not proved possible to achieve one. The Digital Economy Bill, published on 20 November 2009, sets out in detail our proposed legislation to tackle unlawful peer to peer file-sharing. The Report can be found at: [http://www.dcms.gov.uk/what we do/broadcasting/5631.aspx](http://www.dcms.gov.uk/what_we_do/broadcasting/5631.aspx).

The details on the Bill can be found at: <http://interactive.bis.gov.uk/digitalbritain/digital-economy-bill/>.

The legislation will require Internet Service Providers (ISPs) to write to their customers with accounts identified by a rights holder as having downloaded their material unlawfully. In the cases of the most serious infringers, if a rights holder obtains a court order, the ISP would have to provide information so that the rights holder can take court action.

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We hope the process of notifications, coupled with more education of consumers on the importance of rewarding creators for their content and the development and proliferation of legal online content offerings, will secure the 70% reduction in illegal peer to peer file sharing which is our aim. If that proves not to be the case, the Bill provides a reserve power obliging an ISP to apply 'technical measures' to a customer's internet account to restrict or prevent illegal sharing. Technical measures will not be introduced until at least a year after the notification process starts.

If technical measures are introduced they will only be applied to those who have received repeated notifications but continue to be identified in infringement. Technical measures might be a band width restriction, a daily downloading limit or, as a last resort, temporary account suspension. There will be a full appeals process, including to a First Tier Tribunal, which is a judicial body.

More widely, we want a reserve power to amend the Copyright Design and Patent Act. This will allow us to tackle quickly any misuse of emerging technologies for copyright infringement and provide an element of future proofing.

These measures were adopted following two consultations on file-sharing and extensive meetings with all stakeholders. Both consultations, the representations made and the Government's responses can be found at: <http://www.berr.gov.uk/consultations/closedwithresponse/index.html>

We also recognise the need for proper consumer education and attractive new legal sources of content, alongside the system of notifications, so that unlawful behaviour is no longer the "default" for many seeking content on-line. Rights holders need business models which work in the new digital environment. We welcomed announcements such as the Virgin Media and Universal agreement, the development of Spotify and the music offers announced by Vodafone and Sky. These types of agreement will play a critical role in moving the great majority of people away from piracy.

Any subscriber suspected of illegal downloading would face a number of warnings before any measure might be applied. If they illegally downloaded information by accident, or gave someone else access to their internet account who used it for illegal downloading, or if a third party was able to access their internet connection without permission, we would hope that the effect of an initial warning letter would be that the subscriber would change their behaviour either in terms of their own internet activity, the sharing of their internet account, or the protection of any wireless connection.

We will not terminate the accounts of infringers - it is very hard to see how this could be deemed proportionate except in the most extreme – and therefore probably criminal – cases.

I do not agree that our planned measures will prevent private enterprise as well as universities, libraries and the like from offering internet access. All these types of establishment would be able to take action to prevent infringement on their networks. Many already do so and in fact, in many cases, their activities to prevent infringement already go far beyond what we are proposing. Universities, schools etc currently receive notices of infringement from copyright owners, but there is inconsistency in how these establishments react to these notices, and uncertainty as to the legal position. Our proposals will bring regulatory certainty and consistency.

Please thank your constituent for taking the trouble to raise this issue with us.

*Yours ever,
Stephen*

STEPHEN TIMMS