

ANDREW TURNER MP



HOUSE OF COMMONS  
LONDON SW1A 0AA

Rt Hon Peter Mandelson  
Secretary of State  
Department for Business, Innovation &  
Skills  
1 Victoria Street  
London  
SW1H 0ET



SL - illegal P2P/3 strikes

03 November 2009

*Please quote on all correspondence*  
Our ref:

Dear Mr Mandelson,

## Ramifications of Mr Mandelweasel's 3 strikes and disconnect policy

Please find enclosed a letter from Mr [REDACTED]  
[REDACTED] who is concerned about the ramifications of Mr Mandelweasel's 3  
strikes and disconnect policy.

It would be helpful to Mr Turner in answering his letter if you could provide him with your response to these concerns, in a form which I can forward to Mr Wallis.

Yours sincerely,

**Office of Andrew Turner  
Member of Parliament for the Isle of Wight**

## Andrew Turner: Member of Parliament for the Isle of Wight

PLEASE REPLY TO: 24 The Mall, Carisbrooke Road, Newport, IW, PO30 1BW  
Tel: 01983 430808 Fax: 01983 822266 E-mail: mail@islandmp.com

Unknown

From: Andrew Turner MP [mail@islandmp.com]  
Sent: 29 October 2009 15:19  
To: [REDACTED]  
Subject: RE: Letter from your constituent [REDACTED]

Dear [REDACTED]

Thank you for your email.

Mr Turner has asked me to assist him in ensuring that this matter is dealt with promptly and to your satisfaction. The office is open Monday to Friday 9am to 5pm, if you have any questions or concerns please do let me know. He shall be seeking further information on this matter and will respond fully when that is available. Obtaining information from others often takes some time, so please forgive him if he cannot always provide that reply as quickly as he would wish.

I can assure you that he will do his best to help you.

Kind Regards,

Victoria

Office of Andrew Turner  
Member of Parliament for the Isle of Wight

24 The Mall, Carisbrooke Road, Newport, Isle of Wight, PO30 1BW Tel : 01983 530808  
Fax 01983 822266

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From: [REDACTED].co.uk]  
Sent: 29 October 2009 15:13  
To: Andrew Turner MP  
Subject: Letter from your constituent [REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

Thursday 29 October 2009

Dear Andrew Turner,

I would like to protest at the ramifications of Herr Dictator Mandelweasel's 3 strikes and disconnect policy recently announced and register my support for the stance taken by BT and TalkTalk against this proposal raised with a blatant disregard for our civil liberties and a reversal of recent declarations of intent by this fickle government as to our rights of access to the Internet in the Digital Britain review. Apart from the obvious points raised in Torrentfreak.com, Dontdisconnectme.com, & excellent coverage in The Times, I would like to know if it is to become by implication a civil/criminal offence NOT to secure a WiFi router, as there is currently no law that says you must. I personally along with others committed to providing free wifi for all would be dismayed if this was destined to be. I refer you to the excellent FONERO program (of which I am a long standing member and supporter) throughout the EU that has provided free wifi hotspots in public

places, most notably those stainless steel obelisks in most Spanish Piazzas nowadays, and BT's partnership with this excellent program to place such hotspots in our public places—that is currently being expanded, that seems to be hurtling headlong into a conflict with this declared govmt policy. It would be so sad to see free wifi disconnected as for some especially among the lower incomes this might be their only mode of access. Please keep a watching brief on this issue as it is of great concern to the many families in this Island, and will only serve to throw young people into the arms of the UK Pirate party recently established. What is yours and your party opinion about this proposal?

Yours sincerely,

[REDACTED]  
(Signed with an electronic signature in accordance with subsection 7(3) of the  
Electronic Communications Act 2000.)

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Andrew Turner MP  
House of Commons  
London  
SW1A 0AA

Our ref: SM/156896  
Your ref: [REDACTED]/03



November 2009

Dear Andrew

Thank you for your letter of 3 November to Peter Mandelson, enclosing correspondence from your constituent, Mr [REDACTED], [REDACTED] about possible Government action to prevent unlawful downloading from the internet. I am replying as this 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 want to use and access media content, in some cases faster than products and services commercially on offer have developed. But we are also clear that the benefits of the internet must include economic benefits for our creative industries and artists. We therefore take extremely seriously the problem of illegal file sharing, and have been working closely with rights holders, media companies and internet firms to develop practical solutions to reduce and prevent this.

Whilst all parties would prefer a voluntary solution, rather than regulatory, it is clear that such a commercial solution is very difficult to achieve. We recognise that one problem is the need for a level playing field and therefore acknowledge the need for a regulatory baseline.

We have held two separate consultations to help us develop and finalise our regulatory policy. The first in July 2008 examined on possible legislative options to tackle file-sharing. The consultation, submissions received and the Government's response can be found at:

<http://www.berr.gov.uk/consultations/page47141.html>

This was followed by the Digital Britain Report which was published on 16 June 2009 which identified the need to encourage new sources of content and increased levels of media literacy as well as how to tackle those unlawfully sharing copyright material (Chapter 4 in the Report). The report can be found at:

1 Victoria Street, London SW1H 0ET  
[www.bis.gov.uk](http://www.bis.gov.uk)

[http://www.dcms.gov.uk/what\\_we\\_do/broadcasting/5631.aspx](http://www.dcms.gov.uk/what_we_do/broadcasting/5631.aspx)

Alongside the Digital Britain report we issued a consultation setting out our regulatory proposals. In a nutshell these were obligations which would require ISPs to write to subscribers whose account had been identified in connection with an infringement of copyright. The ISPs would also be required to provide information in such a way that rights holders would be able to take targeted court action against the most serious infringers. It should be stressed that at no time will rights holders be able to obtain personal details of individuals from ISPs without a court order. Finally because although we feel these measures represent the most proportionate and effective way to reduce file-sharing significantly, we cannot be sure. We therefore included a reserve power to allow a further obligation to be placed on ISPs in the future if required. This obligation would require technical measures to be applied to the subscribers account with the aim of restricting or preventing file-sharing.

However one concern quickly came to light was the ability of Government to react quickly enough in bringing in the third obligations if these proposals did not prove as effective as expected. We therefore decided to modify these proposals and issued a statement on 25 August explaining our thinking. The consultation on these proposals closed on 29 September.

The consultation and statement can be found at:

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We are in the process of analysing all the responses received and intend to issue a summary along with the Government's top-level response in November. I hope your constituent was able to contribute to the debate.

However it is not possible to look at file-sharing in isolation. There is also the need to ensure proper education of consumers, for new attractive legal sources of content as well as a system of notifications. Notifications will play a significant part in that education role but it is vital that there are attractive legal offers available so that unlawful behaviour is no longer the "default" for many seeking content on-line. That is why we welcomed the announcements such as the Virgin Media and Universal agreement, the development of Spotify and the music offers announced by Vodafone and Sky. These are the types of agreement which will play a critical role in moving the great majority of people away from piracy.

Our ambition is to see the UK as the leading major economy for innovation, investment and quality in the digital and communications industries. The Digital Britain Report aims to secure four key conditions, namely: open markets; empowered and informed consumers and citizens; universal access to public service content; and a responsive regulatory framework. One work-

stream will explore business models for content development in the digital age and the impact of new media on the content market.

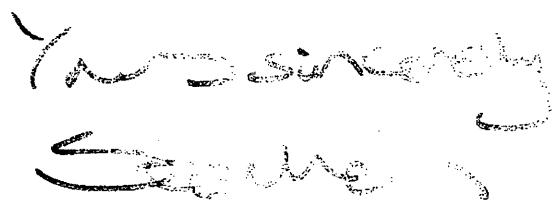
Alongside that and underpinning all work in the creative – and indeed manufacturing - sectors is copyright. That is why the UK Intellectual Property Office launched the Copyright Strategy report '© The Way Ahead' on 28 October 2009. This work looks ahead to how copyright can tackle the challenges of the digital age, drawing on previous work including Digital Britain and the Gowers Review of Intellectual Property, on international perspectives including the European Commissions, and on discussions and submissions from stakeholders.

Ultimately the Government wants a copyright system that works as well as it can for everyone in the UK, supporting investment and sustaining jobs, as well as underpinning our cultural life, and supporting consumers to get the best from the digital age.

Your constituent raises the issue of a possible annual levy on internet users in order to compensate the music industry for copyright infringement. Sadly, much of the reporting around this issue in the media has been incorrect. The consultation contained no such proposal.

The “graduated response” or “3 strikes and you’re out” system has been discussed between the different industry parties in the context of voluntary solutions, and it is the basis of France is moving to implement. However the position in France is somewhat different – copyright breach is a criminal not civil offence in France – and we understand that they will also be making it an offence if a broadband subscriber does not protect their wireless connections. In our view a simple 3 strikes approach (ie three separate instances of copyright infringement and you would face disconnection) is disproportionate.

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



STEPHEN TIMMS





CHRIS BRYANT MP  
Member of Parliament for the Rhondda

5 Cemetery Road, PORTH  
Rhondda, CF39 0LG  
Tel: 01443 687697  
Tel: 01443 687621  
Fax: 01443 686405  
Email: bryantc@parliament.uk

Rt. Hon. Lord Mandelson  
Secretary of State for  
Department Business, Enterprise  
& Regulatory Reform  
Ministerial Correspondence Unit  
1 Victoria Place  
London. SW1H 0ET

Our Ref: MN/[REDACTED]02001/02090217

02 November 2009

Dear Secretary of State

**Re: Three Strikes and Out in Digital Economy Bill**

I have recently received an email from my constituent, Mr [REDACTED] regarding proposals for the Digital Economy Bill. Please see the attached copy of Mr Feely's email and the article which brought about the enquiry for further information.

I would be grateful if you could consider my constituent's concerns and look forward to your response.

Best wishes.

Chris Bryant MP  
Member of Parliament for the Rhondda

DATE REC	V.3
04 NOV 2009	

SL - 3 strike

From: [REDACTED]  
Sent: 30 October 2009 12:38  
To: BRYANT, Chris  
Subject: **3 strikes - digital economy bill**

Hi Chris,

Is there is any truth / accuracy in the following quote:-

"UK Business secretary Peter Mandelson stated explicitly that he intends to include three strikes in the upcoming digital economy bill."

If so then please convey to Peter Mandelson that he is making an unwise choice (a choice that many have already ditched).

Surely he is aware of the arguments for and against such a choice. If  
not he should not be making such choices.

Thanks,

Tel [REDACTED]

## UK and Three Strikes: What Not to Do in an Election Year

Call To Action by Danny O'Brien

The arbitrary termination of Internet access for repeated accusations of copyright infringement -- "three strikes" -- is as profoundly unpopular in the UK as it is elsewhere. National experts have generally come out against the idea, from government civil servants who previously omitted it from a public consultation document as too drastic, to the counter-intelligence MI5 unit, who apparently fear it will encourage an encrypted and unpoliceable darknet, to many of the artists it is supposed to protect. Net users, of course, are aghast at such a disproportionate and ineffective scheme, and 70% of Britons came out against it in a recent poll.

Nonetheless, UK Business secretary Peter Mandelson today stated explicitly that he intends to include three strikes in the upcoming digital economy bill. In a subsequent press conference, a government spokesman emphasized that the arbitrariness of this Internet enforcement mechanism will be proportional only to how ineffective it is as a deterrent:

If it [illegal filesharing] is a massive problem we could turn on a fast, powerful response... If there is a little problem we can be more proportionate. How draconian we are will be a matter for the secretary of state to decide at the time."

Is the UK really set to join France in a legally mandated three strikes regime? Even with Britain's generally government-friendly lawmaking process, that seems up for question.

A UK general election is due to occur within the next few months (the exact date is up to current Prime Minister Gordon Brown, but he is required to name the date before June 2010). The Conservative chairman for the committee considering the proposed digital economy bill has already expressed scepticism that there is time in this parliament if such a "hot potato" as three strikes is included.

The more British voters write to their MPs to complain, the hotter that potato will get. Unpopular and arbitrary proposals as three strikes will not sit well with any politicians facing an election in their near future.



The Rt Hon Stephen Timms MP  
Minister for Digital Britain

Chris Bryant MP  
House of Commons  
London  
SW1A 0AA

Our ref: GG/156829  
Your ref: MN/F/02001/02090217

23 November 2009

Dear Chris

Thank you for your letter of 2 November to Lord Mandelson, enclosing correspondence from your constituent, Mr. [REDACTED] [REDACTED] about possible Government action to prevent unlawful downloading from the internet. I am replying as this 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 want to use and access media content, in some cases faster than products and services commercially on offer have developed. But we are also clear that the benefits of the internet must include economic benefits for our creative industries and artists. We therefore take extremely seriously the problem of illegal file sharing, and have been working closely with rights holders, media companies and internet firms to develop practical solutions to reduce and prevent this.

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However it is not possible to look at file-sharing in isolation. There is also the need to ensure proper education of consumers, for new attractive legal sources of content as well as a system of notifications. Notifications will play a significant part in that education role but it is vital that there are attractive legal offers available so that unlawful behaviour is no longer the "default" for many seeking content on-line. That is why we welcomed the announcements such as the Virgin Media and Universal agreement, the development of Spotify and the music offers announced by Vodafone and Sky. These are the types of agreement which will play a critical role in moving the great majority of people away from piracy.

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Ultimately the Government wants a copyright system that works as well as it can for everyone in the UK, supporting investment and sustaining jobs, as well as underpinning our cultural life, and supporting consumers to get the best from the digital age.

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Please thank Mr [redacted] for taking the trouble to raise these issues with us.

*Yours ever,  
Stephen*

STEPHEN TIMMS



156488

RECEIVED  
IN DCU

30 OCT 2009



HOUSE OF COMMONS  
LONDON SW1A 0AA

Rt Hon Alan Johnson MP  
Home Secretary  
2 Marsham Street  
London

27 October 2009

Dear Alan

I have been contacted by my constituent [REDACTED] regarding his concerns that innocent people could be prosecuted if their internet connection has been used to file share.

I enclose a copy of my constituent's email to me which outlines his concerns.

I would be most grateful to receive your comments on the issue.

Thank you for your help.

Paul Eve

Peter Bone MP  
Member of Parliament for Wellingborough and Rushden

**BONE, Peter**

From: [REDACTED]  
Sent: 23 October 2009 23:18  
To: BONE, Peter  
Subject: Letter from your constituent [REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

Friday 23 October 2009

Dear Peter Bone,

While I understand File Sharing is wrong I am dismayed that it has been suggested that should it be found that your Internet connection has been used to file share you are guilty I understood that a main plank of British Law was innocent until proven guilty in a court of law! What about Human Rights

Yours sincerely,

[REDACTED]  
(Signed with an electronic signature in accordance with subsection 7(3) of the Electronic Communications Act 2000.)

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## Net pirates to be 'disconnected'

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Lord Mandelson announces planned legislation to cut off pirates

The UK government has been laying out some of the ways it intends to pursue persistent net pirates.

It comes as Lord Mandelson confirmed that he would introduce tough measures against illegal file-sharers.

Initially pirates could have download caps imposed or have their bandwidth restricted.

If that did not prove effective in reducing illegal file-sharing, the government will consider disconnecting them from the network.

The Department for Business, Skills and Innovation said the legislation will come into force in April 2010, with the tougher disconnection policy introduced in the spring of 2011 if necessary.

It has asked Ofcom to monitor levels of file-sharing.

ISP TalkTalk said the plans were "ill-conceived" and said it was prepared to challenge measures "in the courts".

"What is being proposed is wrong in principle and won't work in practice," the firm said.

"In the event we are instructed to impose extra judicial technical measures we will challenge the instruction in the courts."

Lord Mandelson emphasised that cutting off internet connections would be a "last resort".

"I have no expectation of mass suspensions. People will receive two notifications and if it reaches the point [of cutting them off] they will have the opportunity to appeal," Lord Mandelson told the audience at the C&abinet Forum, a talking shop set up by government to debate the issues facing the creative industries.

The pay-off for tough penalties against persistent file-sharers would be a more relaxed copyright regime, Lord Mandelson said.

The details of it would need to be hammered out at European level but it would take account of the use of copyright material "at home and between friends", he said.

It would mean that, for example, someone who has bought a CD would be able to copy it to their iPod or share it with family members without acting unlawfully.

Lord Mandelson praised the UK's creative industries, which are worth around £16bn and employs 2 million people.

But it has been eroded in recent years, he said, by new ways of accessing content.

"I was shocked to learn that only one in 20 music tracks in the UK is downloaded legally. We cannot sit back and do nothing," said Lord Mandelson.

The fact that young people now expect to download content for free was "morally as well as economically unsustainable," he added.

#### **Mere conduits**

But he emphasised that "legislation and enforcement can only ever be part of the solution".

The long-term answer was for the industry to educate users and to offer new and cheaper ways to download content, he said. In addition, new copyright laws were needed to lift restrictions on how people moved content on to the various different devices that they owned.

In France the government has just approved a so-called three strikes policy.

Under its system, those identified as illegally downloading content

#### **ILLEGAL FILE-SHARING**

File-sharing is not illegal. It only becomes illegal when users are sharing content, such as music, that is protected by copyrights

The crackdown will be aimed at people who regularly use technologies, such as BitTorrent, and websites, such as The Pirate Bay, to find and download files

There are plenty of legitimate services which use file-sharing technology such as some on-demand TV services

#### **Q&A: Disconnecting file-sharers**

would initially be sent warning letters and, if they failed to comply, could be removed from the network for up to a year.

UK internet service providers have argued that it is not their job to police the network, claiming that there are "mere conduits" of content.

They also say that they should not have to bear the brunt of the costs.

In his speech, Lord Mandelson said that the costs of enforcing the policy would be "shared between ISPs and content providers".

The Internet Service Providers' Association thinks rightsholders should shoulder the burden for all costs, including the reimbursement of ISPs.

"This approach is consistent with the principle of beneficiary pays and would serve to incentivise rightsholders to develop new business models and ensure an effective and efficient use of notifications and targeted legal action," read a statement from ISPA.

ISP TalkTalk said that it would "continue to resist any attempts to make it impose technical measures on its customers".

It has set up a campaign called Don't Disconnect Us to lobby against the plans.

It said that it believed the "three-strikes" rule would lead to "wrongful accusations".

"The unintended consequence of Lord Mandelson's plan will be to encourage more wi-fi and PC hi-jacking and expose more innocent people to being penalised."

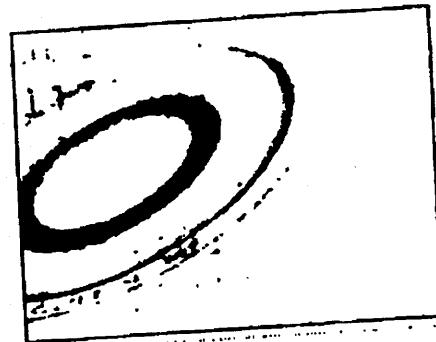
The firm recently demonstrated how someone could hi-jack unsecured wi-fi connections to download music illegally.

#### Dark net

The Open Rights Group, a digital rights lobby organisation, has long been opposed to a disconnection policy.

Jim Killock, executive director of the Open Rights Group, is disappointed that the UK government is determined to introduce such legislation.

"Even MI5 disagree with Mr Mandelson - they are convinced we will see a rise of a 'Dark Net' of infringers. Nobody at C&Bnet from an online music service, as opposed to an old media company, thought that peer-to-peer [file-sharing] was a



Anger at UK file-sharing policy

threat to their businesses.

"Yet Mandelson seems determined to push forward with his plans for 'three

TalkTalk security expert Matt Roxburgh demonstrates the problem to Rory Cellan-Jones

strikes' - threatening to punish people extremely harshly, threatening their education, businesses and livelihoods for a relatively minor financial misdemeanour," he said.

There has been increasing pressure from the music industry to get tough on pirates.

Lily Allen has been spearheading a campaign against music piracy, with high-profile stars including Gary Barlow and James Blunt behind her.

Music industry group BPI welcomed the move.

"The measures confirmed today by government are a proportionate way of encouraging illegal file-sharers to embrace the new services, and will drive further innovation that will benefit online consumers," said Geoff Taylor, BPI chief executive.

But not all content providers agree. Fast-growing music streaming service we7 thinks the government has missed the point.

"Piracy is a reaction to an unsustainable situation, where reasonable, legitimate access to music has struggled to match demand," said chief executive Steve Purdham.

"A variety of reasonable and sustainable models for providing music to consumers is key to ending rampant piracy. This is the approach that should be taken by the government rather than criminalising consumers and driving pirates further into the undergrowth," he added.



Lily Allen has spearheaded a campaign against music piracy

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The internet's



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Post boy  
Why Scouts can

Peter Bone MP  
House of Commons  
London  
SW1A 0AA

Our ref: SW/156488

Your ref:

23 November 2009

Dear Peter

Thank you for your letter of 27 October to Alan Johnson, enclosing correspondence from your constituent, Mr [REDACTED], [REDACTED], about government action to prevent illegal file sharing. I am replying as this matter falls within my portfolio.

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<http://www.berr.gov.uk/consultations/page51696.html>

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We added account suspension to the list of possible technical measures which might be considered if our proposals to tackle unlawful file-sharing through notifications and legal action are not as successful as we hope. This is but one of a number of possible options on which we would seek advice from Ofcom – and others – if we decided to consider a third obligation on technical measures. However what is clear is that we would need a rapid and robust route of appeal available to all consumers if we decided technical measures were needed.

Consumer protection is a key factor covered in the consultation. The legislation will require an underpinning Code to provide routes of appeal for consumers. This Code will require the approval of the regulator, Ofcom. In the consultation itself, we also made it quite clear that consumer protection must be at the heart of any solution – regulatory or otherwise.

We recognise that any solution must protect individuals' privacy. The Government will build in safeguards to ensure the rights of the consumer are protected, and will also ensure policy proposals comply with relevant data protection legislation, and with the e-Commerce Directive, under which ISPs cannot be placed under a general obligation to monitor internet traffic.

Our ambition is to see the UK as the leading major economy for innovation, investment and quality in the digital and communications industries. The Digital Britain Report aims to secure four key conditions, namely: open markets; empowered and informed consumers and citizens; universal access to public service content; and a responsive regulatory framework. One work-stream will explore business models for content development in the digital age and the impact of new media on the content market.

Alongside that and underpinning all work in the creative – and indeed manufacturing – sectors is copyright. That is why the UK Intellectual Property Office launched the Copyright Strategy report '© The Way Ahead' on 28 October 2009. This work looks ahead to how copyright can tackle the challenges of the digital age, drawing on previous work including Digital Britain and the Gowers Review of Intellectual Property, on international perspectives including the European Commission's, and on discussions and submissions from stakeholders.

Ultimately the Government wants a copyright system that works as well as it can for everyone in the UK, supporting investment and sustaining jobs, as well as underpinning our cultural life, and supporting consumers to get the best from the digital age.

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

*Yours sincerely,  
Stephen*

STEPHEN TIMMS





**ANDREW SELOUS MP**  
House of Commons, London SW1A 0AA  
Tel: 020 7219 8134 Fax: 020 7219 1741  
Surgery Appointments: 01582 662 821  
Email: selousa@parliament.uk  
www.andrewselous.org.uk

29 October 2009

The Rt. Hon. The Lord Mandelson  
Department for Business, Innovation and Skills  
1 Victoria Street  
London SW1H 0ET

30 OCT 2009  
standard line - p2p filesharing



Dear Lord Mandelson,

[REDACTED]

I have been contacted by my constituent Mr [REDACTED] who has raised with me his concerns about a recent announcement that the United Kingdom will be adopting the 'Three Strike Rule' in respect of file sharing of copyright material.

Please could I ask you to consider the points that my constituent has raised with me about this matter and let me know what steps the government can take to resolve his concerns.

With very best wishes,

Yours sincerely,

*Andrew Selous*

**ANDREW SELOUS**

Serving the towns and villages of Leighton Buzzard, Linslade, Dunstable, Houghton Regis, Bidwell, Chalgrave, Eaton Bray, Egginton, Great Billington, Heath and Reach, Hockliffe, Kensworth, Little Billington, Rushmere, Sewell, Stanbridge, Studham, Tebworth, Tilsworth, Totternhoe, Well Head, Whipsnade and Wingfield

-----Original Message-----

From: [SELOUS, Andrew](#)  
Sent: 28 October 2009 15:11  
To: SELOUS, Andrew  
Subject: Letter from your cons

Email: [\[REDACTED\]](mailto:)

Wednesday 28 October 2009

Dear Andrew Selous.

I am writing to express my concern that an unelected government official is able to dramatically influence both policy and legislation.

I am referring to the announcement by Lord Mandelson that the UK will adopt the "three strikes" rule with regard to file sharing of copyrighted material.

Lord Mandelson has not been elected to his position by the electorate, and given his previous track record of having to resign from government positions I am astounded that he can now be in a position to directly dictate what the government's policy will be, especially when such as decision ignores recommendations made by Lord Carter's "Digital Britain" report.

Perhaps a cynical person would suggest that Lord Mandelson's interest in this matter only seems to have arisen since his recent meeting with David Coffey.

Yours sincerely,

Andrew Selous MP  
House of Commons  
London  
SW1A 0AA

Our ref: SW/156210

Your ref:



November 2009

Dear Andrew

Thank you for your letter of 29 October to Peter Mandelson, enclosing correspondence from your constituent, Mr [REDACTED] [REDACTED] about possible Government action to prevent unlawful downloading from the internet. I am replying as this 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 want to use and access media content, in some cases faster than products and services commercially on offer have developed. But we are also clear that the benefits of the internet must include economic benefits for our creative industries and artists. We therefore take extremely seriously the problem of illegal file sharing, and have been working closely with rights holders, media companies and internet firms to develop practical solutions to reduce and prevent this.

Whilst all parties would prefer a voluntary solution, rather than regulatory, it is clear that such a commercial solution is very difficult to achieve. We recognise that one problem is the need for a level playing field and therefore acknowledge the need for a regulatory baseline.

We have held two separate consultations to help us develop and finalise our regulatory policy. The first in July 2008 examined on possible legislative options to tackle file-sharing. The consultation, submissions received and the Government's response can be found at:

<http://www.berr.gov.uk/consultations/page47141.html>

This was followed by the Digital Britain Report which was published on 16 June 2009 which identified the need to encourage new sources of content and increased levels of media literacy as well as how to tackle those unlawfully sharing copyright material (Chapter 4 in the Report). 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)

Alongside the Digital Britain report we issued a consultation setting out our regulatory proposals. In a nutshell these were obligations which would require ISPs to write to subscribers whose account had been identified in connection with an infringement of copyright. The ISPs would also be required to provide information in such a way that rights holders would be able to take targeted court action against the most serious infringers. It should be stressed that at no time will rights holders be able to obtain personal details of individuals from ISPs without a court order. Finally because although we feel these measures represent the most proportionate and effective way to reduce file-sharing significantly, we cannot be sure. We therefore included a reserve power to allow a further obligation to be placed on ISPs in the future if required. This obligation would require technical measures to be applied to the subscribers account with the aim of restricting or preventing file-sharing.

However one concern quickly came to light was the ability of Government to react quickly enough in bringing in the third obligations if these proposals did not prove as effective as expected. We therefore decided to modify these proposals and issued a statement on 25 August explaining our thinking. The consultation on these proposals closed on 29 September.

The consultation and statement can be found at:

<http://www.berr.gov.uk/consultations/page51696.html>

We are in the process of analysing all the responses received and intend to issue a summary along with the Government's top-level response in November. I hope your constituent was able to contribute to the debate.

We added account suspension to the list of possible technical measures which might be considered if our proposals to tackle unlawful file-sharing through notifications and legal action are not as successful as we hope. This is but one of a number of possible options that we would seek advice from Ofcom – and others – if we decided to consider a third obligation on technical measures. However what is clear is that we would need a rapid and robust route of appeal available to all consumers if we decided technical measures were needed.

The "graduated response" or "3 strikes and you're out" system has been discussed between the different industry parties in the context of voluntary solutions, and it is the basis of France is moving to implement. However the position in France is somewhat different – copyright breach is a criminal not civil offence in France – and we understand that they will also be making it an offence if a broadband subscriber does not protect their wireless connections. In our view a simple 3 strikes approach (ie three separate instances of copyright infringement and you would face disconnection) is disproportionate.

Our ambition is to see the UK as the leading major economy for innovation, investment and quality in the digital and communications industries. The Digital Britain Report aims to secure four key conditions, namely: open markets; empowered and informed consumers and citizens; universal access to public service content; and a responsive regulatory framework. One work-stream will explore business models for content development in the digital age and the impact of new media on the content market.

Alongside that and underpinning all work in the creative – and indeed manufacturing - sectors is copyright. That is why the UK Intellectual Property Office launched the Copyright Strategy report '© The Way Ahead' on 28 October 2009. This work looks ahead to how copyright can tackle the challenges of the digital age, drawing on previous work including Digital Britain and the Gowers Review of Intellectual Property, on international perspectives including the European Commissions, and on discussions and submissions from stakeholders.

Ultimately the Government wants a copyright system that works as well as it can for everyone in the UK, supporting investment and sustaining jobs, as well as underpinning our cultural life, and supporting consumers to get the best from the digital age.

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

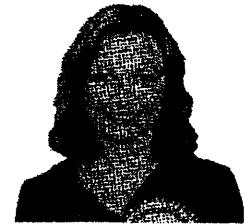


STEPHEN TIMMS





Celia Barlow MP  
House of Commons  
London SW1A 0AA  
T: 020 7219 5599  
E: barlowc@parliament.uk  
W: www.celiabarlow.org.uk



Lord Peter Mandelson  
BIS  
1 Victoria Street  
London  
SW1H 0ET

Our Ref: ED/ [REDACTED] 1001/01091315  
Your Ref:

Monday, 2 November 2009

Dear Peter

I am writing to you on behalf of my constituent Mr [REDACTED] [REDACTED] regarding the proposal to introduce a 'three strikes' law to combat internet 'pirates'.

Mr [REDACTED] has a number of concerns which he has expressed to me, and I have enclosed his letter for your information. Firstly, Mr [REDACTED] believes that the law would place too much responsibility onto companies and not enough on the courts. My constituent firmly believes that if any measures are taken against an internet 'pirate', it must first be proven that they are guilty. Furthermore, Mr [REDACTED] believes that the measure will ultimately be pointless and extremely expensive.

Any information that you may have to allay the concerns of Mr [REDACTED] would be greatly appreciated.

Yours sincerely

Celia Barlow  
Labour MP for Hove and Portslade



29 October 2009 [REDACTED]

[REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

Thursday 29 October 2009

Dear Celia Barlow,

It has recently come to my attention that the government of the United Kingdom plans to roll out a "three strikes" law, that could see internet "pirates" disconnected from the internet. I would like to register my distaste for the law with you, and enumerate my reasons for opposing it.

The descriptions I have heard so far seem to rely too much on the companies whose copyright is allegedly being infringed, and not enough on the courts.

If a company thinks its copyright(s) is/are being infringed, it should be able to take the alleged infringer to court. And then recover the cost of the pirated wares from them. The important point here is that the company may not be correct in its accusations, and any law or policy that grants them power to do anything directly is abhorrent to the basic principles of a free democracy.

If any measure at all is to be taken against a "pirate", it must first be proven that they are guilty. I do not believe that the policy I have read about complies with this basic tenet.

Also, ISPs are carriers. Like British Telecom, or Royal Mail. They should not be made to shoulder the burden of someone else's possibly unfounded accusations.

Besides, this measure is ultimately pointless. For the money it would cost, what does the government hope to gain? There is no evidence that "piracy" impacts the economy in any significant way. You would be spending millions of pounds on a system that stands to achieve very little.

And also, the fallout from the innocent people who may be victimised by this system's failings must be considered. I doubt that any person having their internet throttled due to a mistaken accusation by a company will be very pleased with the government afterwards.

I would also like to know to what extent you agree with this policy, and whether you shall be taking any action in parliament with regard to it.

Yours sincerely,

Celia Barlow MP  
House of Commons  
London  
SW1A 0AA

Our ref: SW/156830

Your ref: ED/[REDACTED]01001/01091315

23 November 2009

Dear Celia

Thank you for your letter of 2 November to Peter Mandelson, enclosing correspondence from your constituent, Mr [REDACTED] [REDACTED] about government action to prevent illegal file sharing. I am replying as this 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 want to use and access media content, in some cases faster than products and services commercially on offer have developed. But we are also clear that the benefits of the internet must include economic benefits for our creative industries and artists. We therefore take extremely seriously the problem of illegal file sharing, and have been working closely with rights holders, media companies and internet firms to develop practical solutions to reduce and prevent this.

Whilst all parties would prefer a voluntary solution, rather than regulatory, it is clear that such a commercial solution is very difficult to achieve. We recognise that one problem is the need for a level playing field and therefore acknowledge the need for a regulatory baseline.

We have held two separate consultations to help us develop and finalise our regulatory policy. The first in July 2008 examined possible legislative options to tackle file-sharing. The consultation, submissions received and the Government's response can be found at:

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However one concern which quickly came to light was the ability of Government to react quickly enough in bringing in the third obligations if these proposals did not prove as effective as expected. We therefore decided to modify these proposals and issued a statement on 25 August explaining our thinking. The consultation on these proposals closed on 29 September.

The consultation and statement can be found at:

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We are in the process of analysing all the responses received and intend to issue a summary along with the Government's top-level response in the late autumn. I hope your constituent was able to contribute to the debate.

We added account suspension to the list of possible technical measures which might be considered if our proposals to tackle unlawful file-sharing through notifications and legal action are not as successful as we hope. This is but one of a number of possible options on which we would seek advice from Ofcom – and others – if we decided to consider a third obligation on technical measures. However what is clear is that we would need a rapid and robust route of appeal available to all consumers if we decided technical measures were needed.

The “graduated response” or “3 strikes and you’re out” system has been discussed between the different industry parties in the context of voluntary solutions, and it is the basis on which France is moving to implement. However the position in France is somewhat different – copyright breach is a criminal not civil offence in France – and we understand that they will also be making it an offence if a broadband subscriber does not protect its wireless connections. In our view a simple 3 strikes approach (ie three separate instances of copyright infringement and you would face disconnection) is disproportionate.

There is no proposal to require ISPs to monitor for unlawful filesharing. Nor are we proposing that ISPs look at what users download in order to combat piracy. The way in which cases of alleged copyright infringement are discovered involves identifying material offered to other users for download in breach of copyright, rather than any monitoring of an individual’s internet account for downloads. The process identifies the IP address of an uploader (under the legislation, making material available for copying is a breach of copyright) using publicly available information, and does not look at what an individual downloads. Under the proposed legislation, it is the rights holders who will identify cases of alleged copyright infringement, not the ISPs. A fuller description of the proposed process to identify unlawful filesharers was included in the 2008 consultation document.

Consumer protection is a key factor covered in the consultation. The legislation will require an underpinning Code to provide routes of appeal for consumers. This Code will require the approval of the regulator, Ofcom. In the consultation itself, we also made it quite clear that consumer protection must be at the heart of any solution – regulatory or otherwise.

We recognise that any solution must protect individuals’ privacy. The Government will build in safeguards to ensure the rights of the consumer are protected, and will also ensure policy proposals comply with relevant data protection legislation, and with the e-Commerce Directive, under which ISPs cannot be placed under a general obligation to monitor internet traffic.

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

*Yours ever,  
Stephen*

STEPHEN TIMMS



HOUSE OF COMMONS  
LONDON SW1A 0AA

The Rt. Hon. Lord Peter Mandelson  
Secretary of State  
Department of Business, Innovation & Skills  
Kingsgate House  
66 -74 Victoria Street  
London SW1E 6SW

24/10/09

Our Ref: DL.ps.gen. [REDACTED]  
Please quote this reference on any response

*Dear Peter*

Attached is a copy of a letter from a constituent detailing problems concerning your department.

I would be very grateful if you could look into the current position concerning this case and let me know the results of your investigations.

Yours sincerely

*David Lepper*

**David Lepper MP**  
**Labour & Co-operative Member of Parliament**  
**Brighton Pavilion**

enc

DATE RECEIVED
05 NOV 2009
BESPOKE

*Bespoke*

Please reply to:

**David Lepper MP**

John Saunders House, 179 Preston Road, Brighton, East Sussex BN1 6AG  
Tel: 01273 551532 Fax: 01273 550617  
[www.epolitix.com/david-lepper](http://www.epolitix.com/david-lepper)

ask sent 26/10/09 -  
have contacted Sec. of State.  
[REDACTED]

Email: [REDACTED]

Saturday 24 October 2009

Dear David Lepper,

Thank you for forwarding to me Stephen Timms' response to my letter of 25th August regarding proposed measures to cut illegal file sharers off from the internet.

However, I would appreciate it if you would point out to Mr Timms that his reply failed to address in any way the issue that I raised in my correspondence, which was about the morality, and indeed the legality, of introducing this kind of punishment for any kind of crime.

Mr Timms' letter does little to reassure me that this has been considered, and in fact it makes me feel substantially worse. When I wrote my original letter I assumed that the proposed punishment was intended to be applied to criminals who had been found guilty in a court of law. But Mr. Timms writes:

"...we are also including the option to allow the introduction of technical measures if the notifications and legal action do not prove as effective as we expect."

Am I to understand from this that the proposal is to apply this inhumane punishment without the involvement of the criminal justice system? Indeed, Mr. Timms' statement seems to suggest that this punishment could be applied even in spite of the judgement of a court. I do not understand how that could possibly be legal, and if it is then there is a serious deficiency in the law, which should be urgently addressed.

Yours sincerely,

David Lepper MP  
House of Commons  
London  
SW1A 0AA

Our ref: 156893  
Your ref: DL.ps.gen [REDACTED]

16 November 2009

Dear David

Thank you for your letter of 27 October to Peter Mandelson enclosing further correspondence from your constituent [REDACTED], [REDACTED] about the Government's position on illegal file-sharing proposals. I am replying as the matter falls within my portfolio.

Given the amount of media reporting on this issue and the even greater amount of speculation surrounding the actual proposals, confusion is understandable and it may help if I clarify here exactly what we are proposing.

We are proposing that, subject to strict standards of evidence, Internet Service providers (ISPs) will be required to send their subscribers whose accounts have been identified with an alleged infringement a series of letters. These will set out the nature of the infringement plus give details of how to access legal content, how to protect a wireless network and information on the value of copyright. Any subscriber ignoring these letters and who appears to continue to infringe copyright could face legal action by the rights holder. Any penalty would only be imposed by a court.

We expect that these measures will significantly reduce file-sharing but we cannot be certain as this is a new area of legislation. We are therefore including a reserve power to introduce a further obligation on ISPs to impose technical measures to reduce file-sharing on persistent infringers if it becomes clear that file-sharing has not been reduced significantly. These measures might include account suspension. I should stress that suspension might only be adopted after advice from the regulator Ofcom as to the most effective and proportionate measure; also it would only be imposed after a subscriber had ignored several written warnings. Finally we recognise that imposing any technical measure must also have alongside it a rapid and robust appeals route for all consumers. This would comprise an appeal, first to an independent body and second to a First Tier tribunal.

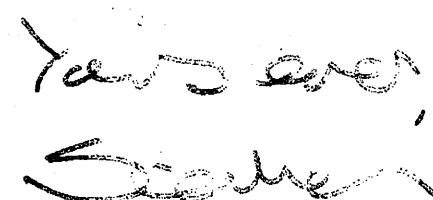
1 Victoria Street, London SW1H 0ET  
[www.bis.gov.uk](http://www.bis.gov.uk)

Enquiries +44 (0) 20 7215 5000 | Minicom +44 (0) 20 7215 6740 | Contact us [www.bis.gov.uk/contact-us](http://www.bis.gov.uk/contact-us)

Mr [redacted] makes reference to the criminal justice system and questions how what we propose fits with this. However, breach of copyright is a civil and not a criminal matter and operates in a different way. The most significant difference between the two is perhaps the standard of proof required. Civil cases are decided on the "balance of probability" whereas criminal cases quite rightly require proof "beyond all reasonable doubt".

As Peter Mandelson made it clear in his speech on 28 October, moving to technical measures is by no means a given and is very much our last resort option. He restated our belief that whilst Government has a role to play in providing the legislative framework, ultimately it is for the market to solve this problem through the provision of the type of content that consumers want, in a manner and format they want and at a price they are prepared to pay.

Please thank Mr [redacted] for taking the trouble to raise this issue with us.

A handwritten signature in black ink, appearing to read "Stephen Timms".

STEPHEN TIMMS