

Rt. Hon. Keith Hill Labour MP for Streatham



HOUSE OF COMMONS

LONDON SW1A 0AA

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03 NOV 2009

The Rt Hon Stephen Timms MP
Parliamentary Under-Secretary of State (Minister for Digital Britain)
Department for Business, Innovation & Skills
1 Victoria Street
London
SW1H 0ET

JM/1001/01091518

Friday, 30 October 2009

Dear Stephen,

I have recently received the enclosed emails from constituents, raising concerns over proposals to disconnect internet users after three warnings for illegal file sharing.

Since I am far from being an expert in these matters, I shall be grateful if you will provide me with a note on the Government's position on this issue, so that I may respond to my constituents' concerns.

Thank you for your attention.

Yours,
Knh.

Rt Hon Keith Hill MP
www.keithhillmp.org.uk

REPRESENTING THE STREATHAM CONSTITUENCY IN PARLIAMENT
(including parts of Balham, Brixton, Clapham & Tulse Hill)

Subject: [REDACTED]

From: [REDACTED]
Sent: 19 October 2009 15:15
To: HILL, Keith
Subject: Letter from your constituent [REDACTED]

[REDACTED]
Phone: [REDACTED]

Email: [REDACTED]

Monday 19 October 2009

Dear Keith Hill,

I have written to you before on this topic, but with Lord Mandelson wishing to push this folly forward i feel i have no option but to re-iterate.

disconnecting people who have been accused of file-sharing is an insult to due process and to the system of innocence until guilt is proven. as an I.T engineer and security enthusiast i can tell you that these measures will not stop pirates and will most certainly criminalize people who are not aware of computer security.

i can crack the WEP wireless encryption within about 5 minutes on a standard router. i don't need to be in the building, just near enough. this means that even with a password protecting it, i can effectively gain access to a person's Internet and connect to it as if it were my own. i am theoretically free to pirate as much as i could want, and the person who will suffer will be the owner of the network, who has done nothing to encourage the file-sharing itself. without the due process of innocence until guilt is proven, this homeowner runs the risk of litigation or criminal prosecution for nothing more than an ignorance of the in-depth workings of computer security. the knowledge of how to crack WEP wireless encryption is widespread. <http://www.aircrack-ng.org/> is a website with free software that will show you how to do it.

i also disagree with the concept that downloaded goods translate into actual losses. i have downloaded many songs in my time and most of them i have not wanted to buy after having heard them.

The industry's problem is not that pirates are stealing all their money, but that their 'goods' have become nothing but repackaged drivel as they arrogantly tell the people what we want to listen to and watch.

the way forward is not with legislation but with a new business model, as many new artists (and even old ones like coldplay and Nine Inch Nails) have found.

The old business model is "buy it and pray you like it, and when we change the format, re-buy it" whereas the new business model that works is "have the music for free, we expect to see you at the live events, buying merchandise"

I would very much urge you to support your colleague, Mr Tom Watson, in his Early Day Motion. he seems to understand the issue properly and understands the threat that this 'solution' poses to the Internet itself and to due process

Yours sincerely,
[REDACTED]

[REDACTED]

Subject: [REDACTED]

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

From: [REDACTED]

Sent: 28 October 2009 17:33

To: HILL, Keith

Subject: Letter from your constituent [REDACTED]

[REDACTED]

Email: [REDACTED]

Wednesday 28 October 2009

Dear Keith Hill,

I have read with some concern that the so called "three strikes" system (for disconnecting Internet connections) is to become a reality in 2011. My concern with this is that there is such obvious room for abuse.

My views on this are pretty straight forward. If I (or anyone else) is using my Internet connection illegally, then I should be prosecuted. Laws already exist for prosecuting copyright violations, child pornography etc. Indeed, these laws have been used successfully on a number of occasions.

I am concerned that the "three strikes" system will essentially circumvent the existing laws. This essentially leaves a path with much less judicial oversight open to the more amoral copyright holding bodies of the world. If their case against a particular person is not strong enough to use existing copyright infringement laws, then it sure should not be strong enough to disconnect them.

The news is littered with cases of copyright holders erroneously accusing others of infringement. Indeed, some record companies and even artists have claimed copyright on material that they have no claim over. In the future, all of these cases will fuel an obvious swathe of mistaken threats or disconnections of Internet users.

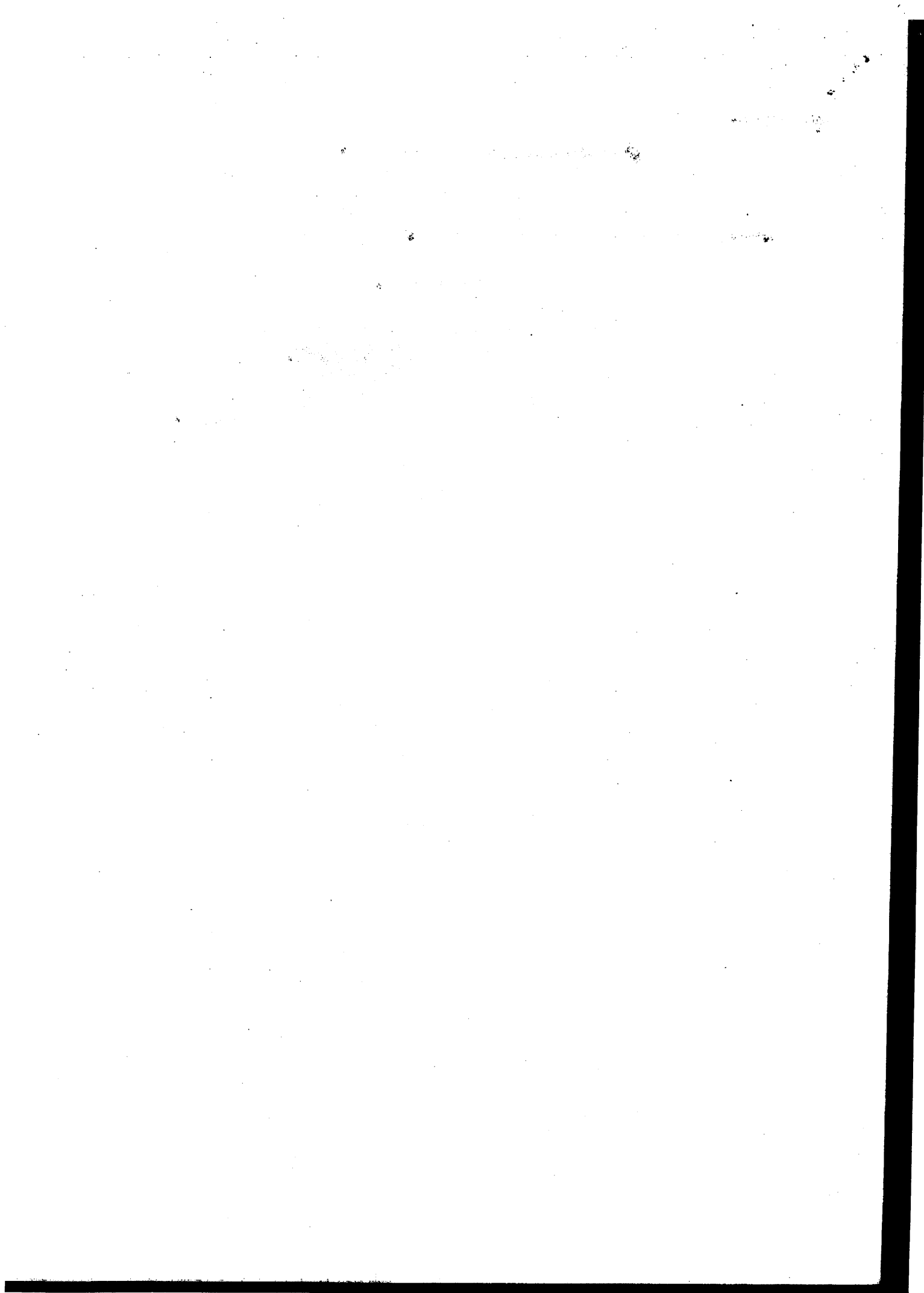
I'm also aware of a number of cases where legitimate file sharing, of free content, is mistakenly identified as illegal. Such cases will easily lead to disconnection, because whilst there is right of appeal, the oversight is minimal, so such mistakes will have serious repercussions.

Lastly, as a technically literate Internet users, I'm all too aware of the fact that it's possible to be sharing illegal material without direct knowledge of this taking place. This is most easily possible by another user of the same computer starting the copying process, but it's also possible via completely automated and non-interactive means, perhaps instigated by some form of 'malware'. Malware is of course extremely prevalent, particularly amongst the less technically literate.

I know I'm am probably "ahead of the curve", but I already regard my Internet connection as an absolute necessity. I use it for work, pleasure and I host web sites. Any disconnection for me would have an immediate and demonstrable financial impact. One would expect that in the future, a greater proportion of Internet users would feel the same way. Certainly, that appears to be one of the tenets of the "Digital Britain" proposals.

I would like to ask you what your stance is on the so-called "three strikes" legislation, and indeed what you have done, and will do to ensure it does not make it as far as the statue books?

Yours sincerely,





HOUSE OF COMMONS

LONDON SW1A 0AA

The Rt. Hon. Stephen Timms, MP,
Department for Business Innovation and Skills,
1 Victoria Street,
London. SW1H 0ET

02 NOV 2009
SL

29th October, 2009.

Dear Mr. Timms,

I enclose a copy of a message from [REDACTED] outlining his concerns about proposals for a crackdown on illegal file sharing.

Mr. Mates would be grateful for your response to what his constituent has to say.

Yours sincerely,

Secretary to The Rt. Hon. Michael Mates, MP

From: [REDACTED]
Sent: 28 October 2009 18:12
To: MATES, Michael
Subject: Letter from your constituent [REDACTED]

[REDACTED]
Petersfield
Hampshire
[REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

Wednesday 28 October 2009

Dear Michael Mates,

I write to you after hearing details about Lord Mandelson's proposed legislation to throttle the speed and eventually disconnect people who share files.

As pointed out by the Internet Service Provider TalkTalk on their "Don't Disconnect Us"

<http://www.dontdisconnect.us/secure-your-wireless/> a large number of non technical savvy users have open or poor security on their wireless routers. Add to that users like me who are members of FON <http://www.fon.com/en/> and actively run a wireless hotspot (encouraged by BT who actually make their homehub 2.0 automatically create 2 wireless hotspot signals if you join FON through them), and a large number of people are at risk of being disconnected and possibly convicted through the activity of someone else using their internet connection.

I urge you to raise this point in any debate on this legislation and also the point that BitTorrent can be used for legal file sharing. Many Open Source Operating Systems have distribution available by BitTorrent, for example Mandriva Linux which is available for free. BitTorrent can be preferable to a more traditional method of downloading this kind of file because it is generally 3 times as fast.

As you can tell I am against this kind of restriction that can penalise innocent people, and would support making more convenient ways to download legal content at a price that is reasonable. An album on iTunes generally is no cheaper than buying the CD, yet it costs virtually nothing to produce and distribute, and is of lower audio quality than the CD. Where is the fairness in that? People (like me) are effectively being penalised for staying within the law when paying for downloaded copyrighted content.

Yours sincerely,

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

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The Rt Hon Stephen Timms MP
Minister for Digital Britain

The Rt Hon Michael Mates MP
House of Commons
London
SW1A 0AA

Our ref: DH/156554
Your ref:

 November 2009

Dear Michael

Thank you for your letter of 29 October enclosing correspondence from your constituent, Mr [REDACTED] Petersfield [REDACTED] about possible Government action to prevent unlawful downloading from the internet. I apologise for the delay in replying.

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:

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

1 Victoria Street, London SW1H 0ET
www.bis.gov.uk

This was followed by the Digital Britain Report, 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, 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 subscriber's account with the aim of restricting or preventing file-sharing.

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:

<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 the late autumn. 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 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.


Your constituent also points out that there are legitimate uses of peer-to-peer technology. This is absolutely right. The technology has many entirely legitimate uses, notably in academia, although possibly the most high-profile was the desktop version of the BBC's iPlayer and Skype. We have no intention of legislating to ban the use of peer-to-peer technology.

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.

We do not envisage any general policy of *terminating* 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.

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.

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

Yours sincerely,


STEPHEN TIMMS

Michael Foster MP
Labour Member of Parliament for Worcester

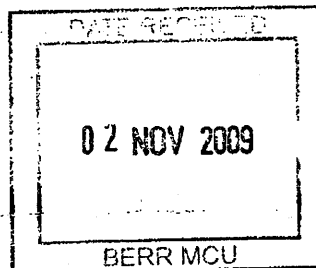


HOUSE OF COMMONS

LONDON SW1A 0AA
Tel: 020.7219.6379
e-mail: paynem@parliament.uk

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

29 October 2009



Dear Peter

I enclose a copy of an e-mail from my constituent [REDACTED] who as you can see raises concern about the suggestion of a Three Strikes rule.

I welcome your comments on the concerns raised by [REDACTED]

Yours sincerely

Michael

Michael Foster MP
Worcester

Your local MP – Standing up for You

visit: www.michaelfoster.co.uk
follow "MikeFosterMP" on Twitter

From: [REDACTED]
Sent: 28 October 2009 20:08
To: FOSTER, Michael
Subject: Letter from your constituent [REDACTED]

[REDACTED]
[REDACTED]
Worcester
[REDACTED]

Email: [REDACTED]

Wednesday 28 October 2009

Dear Michael Foster,

My name is [REDACTED] and I am a young industrial year student who has returned to Worcester and had the fortune to go to Aberystwyth University to study Computer Science. I think I even read to your daughter [REDACTED] while we were at Red Hill Primary School!

To the point, I have recently heard about the "Three Strikes" rule that Peter Mandelson has sought to introduce to the UK (see <http://yro.slashdot.org/article.pl?sid=09/10/28/1344203>) and have concerns. After following France's attempt to introduce it, I don't feel this will work from both a technical standpoint and a social one in the UK.

Technically it means that more databases have to be created, citizens tracked, and so on of which all ISPs will all require some form of access to. Each adding to the potential for abuse. I have (and asked help from law students) tried to find a legal definition of an ISP but have yet to find one.

Instead, why not address the social issues? If 12% of the population do fileshare (recalling a government study that was apparently an underestimate) then why try to impose laws that are generally resented by a large selection of the population? How can you justify saying that much of the population are "wrong" or "criminals". Surely this alone would suggest this is a drastic step in the wrong direction?

This does bring one idea up: that the media industry are fundamentally behind or wrong in their thinking. They are trying to change the world around them instead of themselves.

Personally, I would outright reject this three-strikes rule and send a

strong vocal message to the media industry I assume are pushing for this that the UK government will not criminalise a large portion of the population and that they are the ones needing to change, not the law. This would also have the benefit of stopping The Pirate Party movement dead in the UK (<http://www.pirateparty.org.uk/>) who gained 1-2 seats in their first EU election earlier. It would also help restore faith overall that the government does have individuals' best interests at heart.

Yours sincerely,

[Redacted signature]

[Redacted signature]

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

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The Rt Hon Stephen Timms MP
Minister for Digital Britain

Michael Foster MP
House of Commons
London
SW1A 0AA

Our ref: GG/156642
Your ref:

23 November 2009

Dear Michael

Thank you for your letter of 29 October to Lord Mandelson, enclosing correspondence from your constituent, Mr [REDACTED] of [REDACTED] Worcester [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.

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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.

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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 that [REDACTED] was able to contribute to the debate.

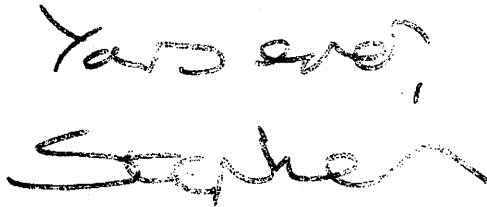
However it is not possible to look at file-sharing in isolation. There is also the need to ensure proper education of consumers, for new attractive legal sources of content as well as a system of notifications. Notifications will play a significant part in that education role but it is vital that there 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.

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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. 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 [REDACTED] for taking the trouble to raise these issues with us.

A handwritten signature in black ink, appearing to read 'Stephen Timms', with a stylized flourish at the end.

STEPHEN TIMMS

04 NOV 2009

info only

[REDACTED]
[REDACTED]
Fulham Palace Road
Hammersmith.
Greater London.
[REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

Sunday 01 November 2009

Lord Mandelson
House of Lords
London
SW1A 0PW

To the Right Honourable Comrade Lord Mandelson.

May i be so bold as to put forward some of my perception regarding your proposals regards the file sharing phenomenon for implementation in 2011.

I would humbly ask a third way philosophy be applied to engender compliance through co-operation along certain lines but of course various parameters to be decided by authority not i though one suggests what is believed reasonable and acceptable to all parties involved.

It is a given that some rules to be enforced are required because of the changed economic map which has severely affected industry profit margins at all levels from artists and creators, producers and corporate levels of the media industry down to local hire shops, but so too has there been an effect seriously compromising the affordability of entertainment media etc in society especially at the lower levels who are integrated at younger ages with those who can afford in schools and colleges et cetera, the unemployed and low waged.

Artists need paying, producers and productions staff need budget finance and distribution networks require a profit margin to remain viable

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businesses, whilst at the same time there is the same effect where film and other media such as music and subscription television channels etc are simply not affordable, among the demographics who make up a huge amount of Internet users globally and in England and sister states of the UK who have evolved an increased quality of life normally accessible to those of greater disposable income, disposable income for quality of life enhancing media has dwindled every bit as much as entertainment industry profit margins with causality to recession vectors.

As much as the tykes who can afford but recalcitrantly download everything regardless, you have struggling families who download a few films for children so the parents can actually afford those necessary items of uniform and equipment, in some cases the poorest families do so to give a better quality of life to their kids because even renting a film takes money off what they need to provide basic food for family, the unemployed who are facing a lessened quality of life as food prices and basics rise and benefits don't so they have fewer outlets to diverge the frustrations of recession vectors and lack of job opportunity.

It is a complex issue.

As too, cutting loads of people off of the Internet along what I clearly fathom would be consequence of proposal would adversely affect e-commerce, because a lot of people again with less money to spend and will download, use online marketplaces to buy as cheaply as possible, where those two converge, which is a significant factor, the e-commerce economy will downturn and add to extant down curves which we all know in reality have to stabilise before upturn and growth really occurs however press release gives confident analyses to spike in the curves, well flatter lines as it were at present.

So too are some of the most intelligent computer scientists and hacker oiks involved in creating packet transfer technologies and there are FTP and clusters of private networking etc which will only mean adapting to a slightly more complicated but ultimately faster mode of file-sharing than Bit Torrent even, work arounds the hardcore releasers' of torrent download material where a crack down will only prompt downloader community recalcitrance and they will develop alternative ways, damage will be done to the greater corporate interests and economy and the hardcore of online copyright infringers' will carry on regardless, with the poorest on society suffering from a wide range of social dynamics which parallel traditional known dynamics of social deprivation, and more so the young, not the adult demographics, it will have profound effects on social networking and the manner modern society has evolved with proposals to cut off and people will not simply stop, that genie is now firmly out of the bottle.

What I propose is a mediation and a set of downloading rules to be

agreed between authorities such as the MPAA, RIAA etc, whereby in film media, all so called "Cam" versions taken from premiere showings are completely unacceptable because they are primary causality to box office losses which is the first and highest level of adverse consequence to material recouping production and into desired profit thresholds, then we have DVD distribution release and then DVD hire shops such as Blockbusters and online marketplace.

these are established businesses at second and third level of profit loss but...

I suggest that an agreement in mediation to the file-sharing community that DVD's be left alone completely until 3 months after the point DVD releases are released to hire outlets, which is past the DVD sale release uptake, or 3 months after DVD sale release if not in hire release, a later comment to tie things up with International Movie Database information's explains how torrent site owner and moderator accept responsibility to buffer uploaded material and disallow non co-op compliance rules material.

There will always be people preferring and able to afford to go to the cinema or have Sky/virgin movies etc and they should be asked to kindly pay as they don't have to download if they can afford, those wanting something for nothing wait until industry profit uptake at all three established levels has cycled to a quarter year, fair enough i'd say and those who cannot afford which is a great many people, not just selfish greedy individuals with plenty, but those who download in this Internet age through economic adversity, many families and children who have improved quality of life not social deprivation dynamics because they are completely integrated socially and educationally to peers, who have plenty and the poorer see this and are understandably affect on several levels.

This can be enforced by new level DRM but to be honest that will not effect the hardcore because DRM isn't and will never be infallible, as said, some of the most intelligent computer users create what are called scene releases so a multi lateral agreement for executive close down of anybody contravening rules set in compliance through co-operation.

With music releases, i suggest trying 6 months from general release but being as downloadable albums and now are split into affordable singles to collate to album etc, with music maybe everybody should just pay, that will never happen though, so the same torrent sites complying with film media and waiting 3 months from hire or direct to DVD release date, if they want to list music torrents, they disallow albums at least, for an artist/industry profit uptake buffer of 6 months, pay for singles or the album before that time, all fair enough and contravention closing site as known consequence.

Torrent sites not actioned for staying within guidelines are then greater compelled to compliance of a co-operation philosophy if initially a few lack efforts and allow material which is still earning profits within 3 months of DVD release criteria set out, torrent site owners and their admin and moderator staff etc will have to check all material, buffer it and check the material is time criterion compliant and a clearer and maintained page information containing the date of box office release, then DVD release and addition of a new date of hire release, all torrent site staff cross correlate using official data provided on www.imdb.com.

If you will Lord Mendelson, that is my perception of the third way philosophy which can work to the benefit of all, file-sharing will not simply stop and imposing punitive measure as proposed for 2011 will have consequences and will not stop the hardcore, only cause more hardship to our countries already suffering Middle Middle to the proletariat and unemployed, those who generate the greater profit will still do so under tighter rules banning "Cam" films taken at box office release, the main culprit of profit loss and also allow traditional established businesses their rightful margins with minimal shrinkage.

Comrade Blair was impressive in 3rd way philosophy, as society evolves so too does policy, but in the post global recession economic map, all parties concerned should be considered and catered for.

I firmly believe forsooth, exploring these parameters and criterion, operandi and such, will serve adequate solution for the foreseeable future, the future has already happened in the context of file-sharing and if exploratory negotiations with the 'pirate' contingent and torrent site owners look promising and that 3rd way compromise to cater for all then acceptable to corporate interests it should then be given to G20 into G4 for multilateral agreement to enforce non compliance with removal of sites and a basic page notifying online community to seek alternative compliant torrent site, like they did with oink but with tolerance and redirection and maybe a provision in domestic law to make "cam" releases before DVD release compliance buffer subject to criminal law as primary and most significant manifestation in filesharing denying industry profit.

Both sides can't ask for fairer than that really and then offenders uploading brand new material and denying primary profit uptake can't argue and the residual loss from compliance to my approximate parameters reflects minimal profit loss in residual sales after primary uptake from the three established business levels compared to current loss factors.

A punitive approach will have most undesirable reflexes economically sir and filesharing will simply adapt, 3rd way philosophy serves so much better, eminently more socialistic in context of the needs of many

outweighing the deeds or wants of the few or one of Plato, something we don't see enough of these days since good comrade Blair left us nationally.

I am of course at your disposal should any more input from myself be required i can expand to concept, as too any Labour comrades of either house.

I see and am aware of a great deal and can think as such conveyed here to many spheres, in fact i've earlier today emailed a member of the design team of Telsa Motors, [REDACTED] about a sensory feedback concept to cater for petrolheads excitement expectations from a vehicle, implementation of which may, nay, will help hasten transition to alternative power plant vehicles by removing psychological resistance in perceived sedateness of experience compared to fossil fuel vehicles as personalities of jeramy Clarksons ilk typifies, i have a healthy intelligence with input even if not already a field of reference to factor, mine is to serve the greater good if i can, where i can, as any good socialist.

Kind and honourable regards.

Sincerely.

[REDACTED]

[REDACTED]

[REDACTED]

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

which
?

30 OCT 2009

Bespoke

Rt Hon Stephen Timms MP
Parliamentary Under Secretary of State
Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET

Campaigns

Direct Tel: [REDACTED]

Email: [REDACTED]

28 October 2009

Dear Minister,

Re: Digital Britain and illegal file sharing

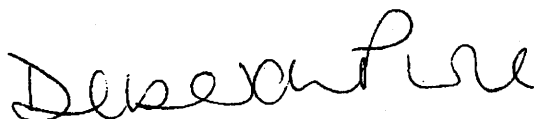
I am writing to ask if we can meet with you prior to the proposed Digital Economy bill's publication next month given today's confirmation that the Government will introduce legislation to tackle illegal file sharing in the forthcoming session of Parliament.

As you will know, we responded to the consultation which closed on 29 September and met BIS officials on 9 September. My colleague [REDACTED] also briefly spoke with you at the Labour Party conference on 30 September when you expressed interest in our evidence and information, in particular about correctly identifying alleged file sharers.

We are very concerned at the impact of your draft proposals on consumers. Though much of the focus has been on the disconnection issue, we are concerned that the unfair enforcement action we have already seen against consumers by copyright holders will continue under the Government's proposals. The attached briefing note *it could be you next* outlines our findings.

We would welcome the opportunity to discuss this with you at your earliest convenience.

Yours sincerely,



Deborah Prince
Head of Legal

2 Marylebone Road
London NW1 4DF
T 020 7770 7000
F 020 7770 7600
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Which? is the business name of Consumers' Association, registered in England and Wales No. 580128, a registered charity No. 296072. Registered Office 2 Marylebone Road, London NW1 4DF.

for all consumers

IT COULD BE YOU NEXT

Illegal file sharing -
unfair claims

October 2009

DIGITAL BRITAIN 2009

which



"What they are doing I believe is bullying people in their hundreds of thousands into paying up for something they haven't done just to make it go away."

"Even though I am innocent of the offence, I was worried sick about the threats of court action and nearly paid straight away..I (like many others) cannot afford to hire a solicitor to help me and without support, how on earth can I argue with a large law firm like this?"

Which? has been contacted by many people who have received what they perceive as threatening letters demanding large payments to settle a claim against them for illegal file sharing. Instead of copyright holders being required to prove that people are guilty, individuals are expected to prove their innocence or pay up. But the high legal costs of fighting the claims, coupled with the emotional stress of increasingly strident lawyers letters, makes this an unattractive if not impossible option for most people affected. Which? understands that thousands of consumers have been pursued in this way and that the practice of despatching these types of letters is continuing. The potential combined loss in monetary and emotional terms to consumers affected is substantial and seems set to increase.

Which? does not condone unlawful file sharing. However, we are concerned that under the government's new "Digital Britain" proposals for dealing with illegal files sharers, consumers will have to pay for a new system that will be neither fair nor effective, and that will allow this appalling practice to continue.

Which? wants:

- > The government to establish an independent adjudication system to ensure the right people are targeted, that those who have been wrongly accused have access to a fair, free and quick appeals process and that any penalties are proportionate.
- > The government to introduce a mechanism to require rights holders to use this official system rather than using lawyers to deal with alleged illegal file sharing as a first step.
- > Rightsholders to ensure that the lawyers they instruct target the correct individuals, and treat them fairly with due regard to standards of professional conduct.
- > Internet Service Providers (ISPs) to challenge the evidence provided by rightsholders.

for all consumers

The lawyers letters we have seen are pretty uniform. They broadly state that:

- > they act for Client X who owns the copyright in work Y
- > a forensic computer analyst has been monitoring the illegal file-sharing of their client's copyright work
- > a copy of that work was illegally file-shared through a specific IP address and that IP address was identified by the relevant ISP as being associated with the individual's internet account
- > this amounts to illegal and unlawful copyright infringement
- > their Clients would be willing to settle this matter if the individual gives undertakings as to future activities and pays a sum ranging from £400-600
- > if the individual does not agree to this compromise, legal proceedings may be brought against them.

In April 2009 Davenport Lyons announced that it was no longer carrying out this "file-sharing enforcement" work and that ACS Law Solicitors (ACS) had been appointed to continue this work in their place. All active files, save those involving legal proceedings, were transferred to ACS and ACS have advised Which? that they intend to take action against thousands of individuals whom they claim, on behalf of their clients, have been shown to be illegally file sharing.

To: Mr. [REDACTED]
Our Ref: [REDACTED]
Date: 27 Jul 09

ACS LAW

18 Renshaw Street, London W2R 1DE
Tel: 020 7193 7453
Fax: 020 7193 5053
Web: www.acs-law.co.uk

**WITHOUT PREJUDICE SAVE AS TO COSTS
NOTICE OF OFFER TO SETTLE - PART 36**

THIS IS AN IMPORTANT LEGAL NOTICE INTENDED TO HAVE CONSEQUENCES IN RELATION TO THE AMOUNT OF LEGAL COSTS YOU MAY BE ASKED TO PAY IF THIS MATTER PROCEEDS TO TRIAL AND A JUDGMENT IS MADE AGAINST YOU. IF YOU ARE IN ANY DOUBT PLEASE OBTAIN LEGAL ADVICE FROM A SOLICITOR OR CITIZENS' ADVICE BUREAU

Take notice that our client offers to settle the claim. This offer is intended to have the consequences of the Civil Procedure Rule Part 36.

If the offer is accepted within twenty-one (21) days of service of this notice you will be liable for our client's costs in accordance with Rule 36.10 of the Civil Procedure Rules ("CPR") SAVE THAT if you accept the offer within this time our client will waive any claim for costs. If you choose to accept the offer after the time limit given in this offer you will be liable for our client's legal costs in accordance with CPR 36.10.

The offer is to settle the whole of the claim.

The offer is: £625.00 (the "Offer Sum")

If you decide to accept this offer you must do so in writing and pay the Offer Sum in full within 14 days of notification of acceptance.

If you decide not to accept the Offer Sum we will rely on CPR 36.14 if the matter proceeds to court and a judgment is obtained at or in excess of the amount claimed.

Please note that there is an explanation of what a Part 36 offer means on our website www.acs-law.org.uk with a separate link to the Ministry of Justice website that sets out the Civil Procedure Rules in full.

The rules relating to a Part 36 offer to settle are complicated and if you are in any doubt about the meaning and effect of this notice we respectfully suggest that you obtain independent legal advice from a solicitor or Citizen's Advice Bureau.

Yours faithfully

Signed

Position held: Principal
Name of firm: ACS Law Solicitors

Counsel for ACS stated at a hearing on 8 June 2009 that those individuals claiming they are innocent have a remedy in that they can seek a declaration that they are not infringing from the court. But this suggestion is ludicrous when ordinary people are involved. The technology used to obtain the evidence will no doubt be disputed and therefore require the presentation of expert evidence and the claims that are being made include complex points of copyright law. All of this adds up to a long and extremely expensive legal case. The average person - and it is average people affected here - does not have the finances or stamina for such an action.

What this means for Digital Britain

In its Digital Britain report,⁴ published in June 2009, the government proposed a new system based on a "graduated response" for offenders including warning letters, a public education campaign and Court based action against serious offenders. If this approach failed, it left open the option for tougher "technical" measures (from reducing broadband speed to suspending a customer's account⁵) to be used. As part of the new system two new obligations would be placed on ISPs:

- > To notify customers whose broadband connections' have allegedly been used for illegal file sharing ('notification obligation')
- > To help rightsholders identify the most frequent 'offenders' ('serious infringer obligation') e.g. through the maintenance of a list of the most serious infringers.

The proposal suggested that rightsholders should bear the costs of imposing these obligations on ISPs. Under this system, Ofcom would:

- > have an oversight role to ensure ISPs fulfil the proposed obligations and that all parties follow new codes of practice governing their behaviour.
- > have the power to decide when technical measures could be brought in. This decision was to be made on the basis of thorough research into the impact of the notification system over a period of time.

Since the original publication, Lord Mandelson has published an addendum document⁶, developing the original proposals. This document proposes:

- > enabling tougher action to be taken against those accused of illegal file sharing more quickly
- > giving the Secretary of State, the power to direct Ofcom to decide whether, what and when technical measures can be brought in.
- > spreading the costs of the new system more evenly (50/50) between ISPs and rightsholders.

Why should consumers pay for a system that won't work?

Which? supports efforts to address illegal file sharing and welcomes the government's efforts to develop a system that will reduce threatening and unfair file-sharing claims by rightsholders.

⁴ Carter, Lord (2009). 'Digital Britain: Final Report', pub: Dept of Business, Innovation and Skills and Dept of Culture, Media and Sport, accessed at <http://www.culture.gov.uk/images/publications/digitalbritain-finalreport-jun09.pdf>

⁵ The proposed list of technical measures is: disconnection (or temporary suspension), site blocking (Site, IP, URL), protocol blocking, port blocking, bandwidth capping, content identification and filtering.

⁶ BIS (2009). 'Government statement on the proposed P2P file-sharing legislation', pub: Dept for Business, Innovation and Skills: London.

rightsholders should ensure that the lawyers they instruct target the correct individuals treat them fairly and with due regard to standards of professional conduct.

A solution is needed that makes things better not worse

Illegal file sharing must be addressed but forcing innocent people to prove their innocence at huge financial and emotional cost cannot continue. The government must revise its plans to ensure they protect consumers and deal with this issue. In the meantime, rightsholders must end this intimidating practice.

About Which?

Which? is a non-profit making organisation that aims to make consumers as powerful as the organisations they deal with in their daily lives.

Which? is an independent, not-for-profit consumer organisation with over 700,000 members and is the largest consumer organisation in Europe. Which? is independent of Government and industry, and is funded through the sale of Which? consumer magazines, online services and books.

More information on Which? campaigns can be found at www.which.co.uk/campaigns

For further information please contact [REDACTED]

Email: [REDACTED]

Tel: [REDACTED]

BIS

**Department for Business
Innovation & Skills**

The Rt Hon Stephen Timms MP
Minister for Digital Britain

Deborah Prince
Head of Legal
Which?
2 Marylebone Road
London
NW1 4DF

Our ref: 156226

Your ref:

9 November 2009

Dear Ms Prince

Thank you for your letter of 28 October requesting a meeting to discuss Government plans to combat illegal file sharing.

I was interested in the comments of your colleague, [REDACTED] on this matter when we spoke at Conference in September. I should therefore be pleased to meet you and colleagues from Which? to discuss your concerns and outline our plans in more detail. May I invite you to get in touch with my Diary Secretary, [REDACTED] to make the necessary arrangements; [REDACTED]
[REDACTED]

*Yours sincerely,
Stephen Timms*

STEPHEN TIMMS

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