

Abandon Lord Mandelson's plans to ban individuals from the internet based on their use of 'peer to peer' file sharing.
E Petition Reply

Date 8 September

We received a petition asking:

"The use of P2P is neither illegal nor exclusive to copyright theft. Many free software providers use this form of distribution, as does BBC's iPlayer. If citizens are innocent until proven guilty, ISP's would be forced to monitor internet usage to ensure that no copyrighted material is being transferred. This flagrant disregard for privacy is comparable to forcing the Post Office to search through parcels for photocopied documents or mixtape cassettes. Such requirements would place enormous strain on ISP's whilst failing to prevent the distribution of copyrighted material through hidden IP's, http or ftp. Who is punished in the case of shared family connections? The increasing role of the internet in access to society should not be underestimated. Cutting off households deprives families of education, government services and freedom of speech. We do not see this as a fittings punishment, nor do we believe the breaches in privacy involved to be justified under copyright law."

Read the Government's response:

Thank you for the e-petition which requested Government abandon proposals to curb illegal peer-to-peer file-sharing.

We are currently considering the responses to the peer-to-peer file-sharing consultation and no decisions have been made. This consultation can be found at:

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

The Government wants as many people as possible to enjoy all the benefits that broadband internet can bring. 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.

Your assertion that ISPs would be breaking privacy laws if required to monitor individual internet accounts for illegal file-sharing activities is right. ISPs must comply with Data Protection laws. However, there is no proposal to require ISPs to monitor for unlawful file-sharing. Nor are we proposing that ISPs look at what users download in order to combat piracy. Rather it will be for rights holders, when they identify a breach of their copyright, to provide the necessary information to ISPs who would then be required to send letters to the alleged infringer.

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 would raise significant issues, including human rights, and would require a very rapid appeal mechanism to ensure it was not wrongly applied. However, we stress this is very much a consultation and no decision on whether suspension should be included has been taken.

At the time of writing there is a debate in Brussels on the very issue of internet access and human rights. We are following this closely and will take steps to ensure our proposals fall into step with the outcome. If we do move beyond our initial obligations and do add an obligation on technical measures, then I agree we have to make sure that this is again compliant with EU law. Our legal view is that our proposals, provided the proper safeguards are firmly in place, would comply.

Background Note

Signatory: PM

Addressee: No.10 Direct Communications
10 Downing Street
London
SW1A 2AA

Originator: [REDACTED]
Business Sectors Information Hub
1 Victoria Street
Ext 6889

Date: 12 October 2009

[REDACTED] believes the use of peer-2-peer file-sharing is neither illegal nor exclusive to copyright theft. He has therefore raised objections to the BIS sponsored proposal to curb illegal peer-2-peer file-sharing and has called for the proposal to be abandoned. [REDACTED] objection is based on his understanding that to establish the guilt of alleged violators, the proposal would require Internet service Providers (ISP's) to monitor for activities of illegal file-sharing over their networks and suspected violators would be disconnected from the internet. [REDACTED] believes monitoring internet accounts of individuals amount a violation of privacy.

According to Mr [REDACTED] disconnecting the internet accounts of consumers suspected of illegal peer-2-peer file-sharing would "deprive families of education, government services and freedom of speech". Mr Mills does not view this and privacy violations as fitting punishments.

Mr [REDACTED] rightly points to legitimate uses of peer-to-peer technology. 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, 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.

On the issue of privacy, 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.

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.

MT 41-09

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153465



MP - met

①

HOUSE OF COMMONS

LONDON SW1A 0AA

29/8/09

BP Turbo H13

COPIES TO

FOR ADVICE (AND DRAFT REPLY

IF APPROPRIATE) PLEASE BY:

IF DEALING CANNOT BE MET

PLEASE PHONE

Department for Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH

Our Ref: PALI002/083500

07 July 2009

Dear [REDACTED]

Enclosed, please find a letter from a constituent of Ben Bradshaw's.

If you could forward the corresponding line for this case at your earliest convenience, I would be most grateful.

Thank you for your time.

Best wishes,

[REDACTED]
The Office of Ben Bradshaw

DATE RECEIVED

09 OCT 2009

BERR MCU



**Ben
Bradshaw**
Labour
Member of
Parliament for
Exeter

Constituency Office

Labour HQ
26b Clifton Hill
Exeter EX1 2DJ

Tel: 01392 424 464
Fax: 01392 425 630

Parliamentary Office
House of Commons
Westminster
London SW1A 0AA

Tel: 020 7219 6597
Fax: 020 7219 0950

e-mail: bradshawb@parliament.uk
website: www.benbradshaw.co.uk

From: MR [REDACTED]
Sent: 27 August 2009 13:51
To: BRADSHAW, Ben
Subject: [REDACTED]

[REDACTED]
Exeter
Devon

Email: [REDACTED]

Thursday 27 August 2009

Dear Ben Bradshaw,

I am writing to you to express my concern over the dramatic shift in the direction in tackling the P2P illegal downloads. Disconnecting the alleged offenders is futile, there is not the infrastructure to do it, it is simply to easy for people mask there identification. Also it would be impossible to identify the individuals responsible due to multi-user accounts, wifi hijacking, using virus and Trojans to steel other computers, it will result in innocent people being cut off from the internet.

If the copy right holders want to reduce piracy they should make it easier to download music (itunes and spotify are very good examples) and movies legally than though P2P protocols.

People are quite happy to pay for movies and music, but the same people are impatient and lazy, why wait 6 months for a movie that is out in America but not in the UK; that same movie you can download now and watch in the comfort of your own home? Until that is resolved there will always be a problem.

Yours sincerely,

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

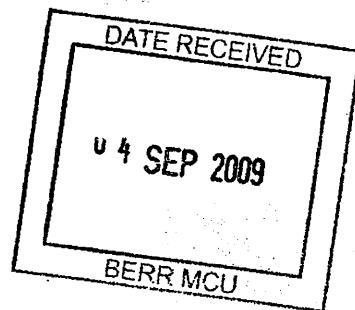
[This message was sent by WriteToThem.com. If you have had any problems receiving this message, please email team@writetothem.com and we'll get back to you. See www.writetothem.com for more details about the service. We have sent this email to bradshawb@parliament.uk; if this address is out of date please email us so that we can update our records.]



149400

HOUSE OF COMMONS

LONDON SW1A 0AA



Lord Peter Mandelson
Secretary of State
Dept. of Business, Enterprise & Regulatory Reform
1 Victoria Street
LONDON
SW1H 0ET

Our Ref: [REDACTED] 01008/01092734
Your Ref:

26 August 2009

Dear Peter

Re: [REDACTED]

I am attaching a copy of a communication I have received from my constituent, the contents of which are self-explanatory.

I would be grateful if you could let me have a reply dealing with the points my constituent raises.

With best wishes

Rt Hon Andrew Smith MP

Subject: [REDACTED]
From: [REDACTED]
Sent: Aug 25, 2009 05:18:19 PM
To: andrewsmith.mp@virgin.net

PRINT

[REDACTED]

Tuesday 25 August 2009

Dear Andrew Smith,

I am writing on the subject of the recently amended Digital Britain Report, and specifically the proposals to introduce regulation whereby an internet service provider (ISP) would be responsible for monitoring of customer usage and restricting access where usage was deemed unacceptable. The proposals specifically address the transmission of copyrighted material colloquially referred to as "music piracy". I have grave concerns about these proposals, which I believe have ramifications well beyond the sharing of files. My reasons include but are not limited to:

- 1) Small-scale copyright infringement (such as photocopying pages from a library book) has always been a matter of civil law and generally considered acceptable so long as not detrimental to the copyright holder, who may sue if they feel damages are due. Large-scale abuse (such as selling bootleg videos) can be a matter for the police and criminal courts. The current proposals would introduce an unprecedented legal grey area where third parties (Ofcom and the ISPs) are investigating and punishing copyright infringements. Even if the ISPs can reliably determine what material was transmitted, the issues of who owns the copyrights or portions thereof and whether the transmission was allowed or precluded by some other agreement or contract is complicated and warrants the involvement of the courts, as is presently the case.
- 2) Following from (1), the introduction of a quasi-legal system of investigation and sanction for specific offences is not justified and has many pitfalls. I would draw parallels with the introduction of traffic speed cameras, which were originally hidden but are now put in clear sight. Despite the high reliability of the devices there is still an option to challenge camera evidence in court and finally sanctions are made ONLY against the driver committing the offence. The proposed monitoring of internet use is in contrast clandestine, has no mechanism for legal challenge, and involves sanctions that inevitably impact others, since most internet connections are now shared by a household. We are told that the volume of infringement justifies the current proposals, but I would suggest that speeding violations are far more common and with frequently deadly consequences.
- 3) The routine monitoring of personal internet communications flies in

Times
TO

Page 1 of 2

From: [REDACTED] (COMMS)
Sent: 06 October 2009 10:03
To: MCU Team 2
Subject: FW: Creative Coalition Campaign: Letter to the Times from producers, directors and actors
Attachments: Letter to the Times, 2 October.doc

Morning,

This is one for you guys I think.

Ta

[REDACTED] for Pat McFadden MP

From: McFadden MPST
Sent: 05 October 2009 17:34
To: [REDACTED] (COMMS)
Subject: FW: Creative Coalition Campaign: Letter to the Times from producers, directors and actors

[REDACTED]
Could you log this please. May just be for information because it might be a round robin.

[REDACTED]
From: [REDACTED] [mailto:[REDACTED]@lexcomm.co.uk]
Sent: 02 October 2009 17:53
To: McFadden MPST
Subject: Creative Coalition Campaign: Letter to the Times from producers, directors and actors

From the Creative Coalition Campaign:

Dear Minister,

The Creative Coalition Campaign (CCC) would like to draw your attention to the attached letter which was published in today's *Times* from a group of the UK's leading film and TV producers, writers and directors. The letter highlights the growing problem of illegal file-sharing and pledges support for the Government's recent proposals for how to tackle this issue. In particular it commends the Government for "putting the UK into the lead globally in creating a safe and secure broadband internet that will serve consumers while not killing jobs in the UK's world-class creative industries".

The group supports the calls of both the CCC and the Government to introduce technical measures against repeat infringers and highlights the fact that thousands of individuals – most of whom are *not* household names – are reliant on the creative industries for their livelihoods.

An accompanying article about the call from the group can be found here -
http://technology.timesonline.co.uk/tol/news/tech_and_web/article6857769.ece

If you've any questions, please don't hesitate to get in touch.

Best wishes,


<http://www.creativecoalitioncampaign.org.uk/>



Direct Tel: +44 (0)20 7025 2349

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THE TIMES Friday October 2 2009

1 Pennington Street Facsimile 0
London E98 1TA E-mail letter

Back Government to stop internet theft

Sir, As a group of UK film and TV producers, directors and actors who have made some of the UK's most innovative and distinctive films and television programmes, we support the proposals announced recently by the Government to deal with the tidal wave of digital theft on the internet. We commend the Government for putting the UK into the lead globally in creating a safe and secure broadband internet that will serve consumers while not killing jobs in the UK's world-class creative industries.

The film and television work that we create provides employment for tens of thousands of people in the UK, attracts foreign investment into the UK, creates billions in revenue and provides entertainment for many millions of people. Most of the people engaged in our industry are not stars or household names, but the scale of the problem of digital internet theft is putting at serious risk the jobs of make-up artists, editors, lighting and sound technicians, cameramen and set and costume designers to name just a few.

The film and TV industries are now making substantial investments in broadband based business models but all that will count for nothing if in the future there is no functioning and secure online marketplace to sell films to audiences. The future for the UK's broadband networks should be the legal delivery to consumers of our films and TV programmes in an attractive and innovative way and not, as it currently stands, the wholesale distribution of illegal material.

We believe the measures proposed by government — comprising warning letters sent by internet service providers (ISPs) to infringers with technical measures reserved for those who continue to steal despite receiving repeated warnings — are both fair and proportionate and will make a real difference. These measures are vital if we are to tackle the problem of internet theft and ensure that the UK preserves its position as a world leader in the film and TV businesses.

We urge the ISPs to act with the content industry in the ways proposed by Government in order to achieve a significant reduction in digital internet theft in the UK.

ALISON OWEN, ALISON STEADMAN, ALISON REICH, ANDREW LLOYD WEBBER, ANN SKINNER, ANTHONY WAYE, BARBARA BROCCOLI, BARNABY THOMPSON, BILL NIGHY, CALLUM McDougall, CAROLINE HEWITT, CHARLIE GUARD, CHRISTIAN COULSON, DAISY DONOVAN, DAHAN JONES, DAN MAZER, DANNY BOYLL, DAVID HEYMAN, DAVID LELAND, DAVID PARFITT, DAVID YATES, EDGAR WRIGHT, ELISABETH MURDOCH, ENIMA THOMPSON, ERIC TELLNER, GILLIES MACKINNON, GINA MCKEE, GRAHAM BROADBENT, GUINDA CHADHA, GUY RITCHIE, DAME HELEN MIRREN, HILARY BEVAN JONES, JO BURR, JOE WRIGHT, JOHN DURT, JON FINN, JONATHAN CAVENDISH, JULIAN FELLOWES, JULIE WALTERS, JUSTIN CHADWICK, KENNETH BRANAGH, KRIS THYKIER, LIZ KARLSEN, LLOYD UWIN, LUC BOEG, MARC SAMUELSON, MARK MYLOD, MARY RICHARDS, MATTHEW MACFADYEN, MATT LUCAS, MICHAEL KUHN, MICHAEL SHEEN, MICHAEL WILSON, MIKE LEIGH, NICK FROST, NICK HYNTNER, NICKY KENTISH BARNES, NIRA PARK, PAUL BERRROW, PAUL GRIFFIN, PAUL WEBSTER, PAUL WEILAND, RALPH FIENNES, RICHARD CURTIS, RICHARD E GRANT, RICHARD EYRE, RICHARD JOBSON, RICHARD LONCRANE, ROBERT FOX, ROBYN SLOVO, ROGER LLOYD-PAGE, ROWAN ATKINSON, RUPERT WYATT, RUTH CALEB, SAM TAYLOR-WOOD, SARAH RADCLIFFE, SIMON BOSANQUET, SIMON CURTIS, SIMON McBURNEY, SIMON REILLY, SIR ALAN PARKER, STEPHEN DALDRIDGE, STEPHEN FRUARIS, STEPHEN WOOLEY, STEVE BENDPBLACK, STEWART TILL, TIM BEVAN, TOM GUARD, TONY ROBINSON, TRENTA SHAPERO

16M

BR

TIMMS M/c

From: MCU Team 1
Sent: 29 September 2009 08:57
To: MCU Team 2
Cc: [REDACTED]
Subject: FW: Paul McGuinness to SoS re: unlawful filesharing

[REDACTED]

Paul McGuinness to SoS re: unlawful filesharing

MCU

Please log and allocate to the BR info hub for advice / draft response.

Thanks

Paul

[REDACTED] Private Secretary to Secretary of State for Business, Innovation and Skills | [REDACTED]

From: [REDACTED]
Sent: 28 September 2009 12:09
To: Mandelson MPST
Subject: from Paul McGuinness, Manager, U2

September 28th, 2009

The Rt Hon Lord Mandelson
First Secretary of State, Secretary of State for Business, Innovation & Skills and Lord President of the Council
BERR
1 Victoria Street
London SW1H 0ET

Dear Lord Mandelson,

We write as managers of successful artists and bands to express our firm support for the measures you are proposing to curb illegal file-sharing on ISP networks.

We have spent our lives managing artists, including U2, PJ Harvey, Dixie Chicks, We are Scientists and Saosin. We have watched their careers evolve through a combination of great talent, relentless effort and the investment of a significant part of the proceeds of their success into the making of new music.

Our clients are the fortunate ones. Most of them have achieved success beyond the dreams of aspiring acts. For the next generation of new artists, however, the picture is very different. The explosion in unauthorised file-sharing in the last few years has made it virtually impossible to envisage where the investment needed to support the great acts of the future is going to come from. This is why it is so crucial that your proposals for proportionate measures by ISPs to stem illegal file-sharing on their networks are adopted and implemented as soon as possible.

We support your view that if, as a last resort and after repeated warnings, it is necessary to use an element of sanction such as temporary account suspension of serious offenders, then that is a fair and proportionate response to the problem.

British music has helped the UK win friends, admirers and investment from across the world. It is fitting now that Britain is showing its leadership in finding a solution on which a generation of young artists, investment in music and the future of creative industries depends.

Thank you for all your efforts.

Yours sincerely,

Paul McGuinness, Chairman, Principle Management, Dublin and New York

Simon Renshaw, Strategic Artist Management, Los Angeles

Arthur Spivak, Spivak Management, Los Angeles

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The Rt Hon Lord Mandelson

Secretary of State for Business
Innovation & Skills

Paul McGuinness, Principle Management
Simon Renshaw, Strategic Artist Management
Arthur Spivak, Spivak Management

Our ref: SM/151449
Your ref:

Email-to: [REDACTED]

9 October 2009

Dear Paul, Simon and Arthur,

Thank you for your joint email of 28 September about peer to peer file-sharing.

I appreciate the time you have taken in writing to me to express your support for the Government's proposals on this issue.

As you know, we committed in the interim Digital Britain report to consult on the detail of the legislative proposals and this consultation was issued on 16 June. Following this, concern was expressed at the length of time it would take to implement these measures, or indeed move to technical measures if this was deemed necessary. 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.

We are currently analysing all the responses received and intend to issue a summary along with the Government's top-level response in November. However, this issue continues to command a great deal of interest and I am sure we will be in continued contact with all the main stakeholders over the coming months.

Peter Mandelson

PETER MANDELSON

in face of the long-standing principle that no government agency, individual or company should store or access our personal communications unless a warrant has been issued or there is, say, a threat to national security. It is for good reason that the Royal Mail do not steam open our letters and BT do not record our telephone conversations. The technology may have changed but the people have not, and the old principles of right to privacy are still very much valid.

In summary, I hope you will press for the government's own consultation guidelines to be heeded in this matter as well as the warnings from informed parties such as the Open Rights Group. I believe that virtually all technologists in this country share my concerns. I very much doubt that the proposed legislation will serve the needs and wishes of your constituents.

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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149302

HOUSE OF COMMONS
LONDON SW1A 0AA

DATE RECEIVED
6 SEP 2009
BERR MCU

Rt Hon Lord Mandelson
Secretary of State
Department for Business, Innovation and Skills
Ministerial Correspondence Unit
1 Victoria Street
London SW1H 0ET

2 September 2009

From the Rt Hon Clare Short MP

Dear Peter

File Sharing Legislation

Birmingham

I enclose an email from [REDACTED] regarding file sharing. I am afraid I do not really understand the complaint but I would be grateful for your response.

Best wishes

Yours sincerely



Clare Short

From:
Sent:
To:
Subject:

25 August 2009 12:41

SHORT, Clare

Letter from your constituent

Email: [REDACTED]

Tuesday 25 August 2009

Dear Clare Short,

I was concerned to read this morning the "GOVERNMENT STATEMENT ON THE PROPOSED P2P FILE-SHARING LEGISLATION" (<http://www.berr.gov.uk/files/file52658.pdf>), detailing plans for potential "technical measures" to be taken against those suspected of repeated unlawful P2P activities.

I feel that the removal or suspension of individual's access to such a vital service is both in contravention of basic human rights, and also contrary to the government's own goal of universal broadband access.

I was also concerned to read that these powers would lie in the hands of the secretary of state, rather than with Ofcom. I believe that such decisions should not be made by politicians - who may have personal or other interests affecting their actions, but rather with an independent body with knowledge of the technologies involved.

It is far too difficult to prove the identity of an individual online to warrant such heavy handed measures against them. For example, IP addresses can easily be faked, or individuals can often easily use a wireless connection without the knowledge of the account holder.

Measures such as those proposed could lead to many individuals having their connections suspended by malicious third parties, as well as those illegally sharing files avoiding action.

I urge you to oppose these proposals and the inherent threat they pose to one's freedom of access to information.

Yours sincerely,

[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 Clare Short MP
House of Commons
London
SW1A 0AA

Our ref: SW/149302

Your ref:

21 September 2009

Dear Clare,

Thank you for your letter of 2 September to Peter Mandelson, enclosing correspondence from your constituent, Mr ██████████ of ██████████ ██████████, Birmingham ██████, about possible Government action to prevent unlawful downloading from the internet. I am replying as this matter falls within my portfolio.

We propose to legislate to ensure that consumers whose broadband account has been identified in connection with alleged copyright infringement would be alerted by letter. This would set out the legal position but also provide pointers for help and information on, for example, how to protect wireless networks properly, where to find legal sources and routes of appeal. This letter would come from the Internet Service Providers (ISP) concerned, not a law firm. This should help address many concerns about individuals being wrongly identified, not having the correct information or indeed feeling pressured by the threat of legal action.

For those individuals who choose to ignore the letter, they will receive a number of further warnings before they are ultimately added to a list of those subscribers most frequently alleged to have breached copyright. Rights holders will be able to use a court order to obtain the details of these individuals and then take targeted legal action as appropriate. This should ensure that individuals have ample opportunity to change their behaviour, take appropriate action to, for example, secure their wireless connection or indeed appeal. It would also mean that only those who chose to ignore the warnings and who appeared to continue to infringe copyright on a large scale would face legal action.

As a final safeguard, this activity would be underpinned by a Code overseen by the independent regulator the Office of Communications (Ofcom). A key issue the Code would have to cover is consumer protection – one of Ofcom's prime roles. However, we are breaking new ground in legislating to tackle this type of activity and while we are confident these measures will significantly reduce the level of unlawful file-sharing, we cannot be sure. That is why 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.

We committed in the interim Digital Britain report to consult on the detail of the legislative proposals and this consultation was issued on 16 June. Following this, concern was expressed at the length of time it would take to implement these measures – or indeed move to technical measures. We therefore decided to modify these proposals and issued a statement on 25 August explaining our thinking. Your constituent would be welcome to respond by the closing date of 29 September. The consultation and statement can be found at:

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

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 would raise significant issues, including human rights, and would require a very rapid appeal mechanism to ensure it was not wrongly applied. However we stress this is very much a consultation and no decision on whether suspension should be included has been taken. [We would particularly welcome your constituent's views.]

Consumer protection is a key factor covered in the consultation. The legislation will require the Code to provide routes of appeal for consumers. This Code will require the approval of the regulator, Ofcom. In the consultation itself, we also make 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.

Your constituent is right to point out the potential difficulties arising from any technical solution to monitor or block file-sharing. The consultation suggests one possible solution may be via the use of filters (or a similar technology) to restrict or block unlawful file-sharing. In Belgium, the use of filters has been imposed on an ISP by a court in order to combat file sharing, and the French Oliveness Agreement also mandates the testing of filters. Some have cited both as examples of what the UK might do. However, the effectiveness of filters or any other technological solution is a matter of some debate, which is why we have sought views on this.

We do have a real concern over the level of "false positives" that any filter might generate – a "false positive" is where a filter wrongly identifies and blocks legitimate traffic. We are also all too aware that this is a fast changing environment and what might work today may well be ineffective tomorrow. Any technological solution would need to have some degree of future proofing.

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

*Yours ever,
Stephen*

STEPHEN TIMMS

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

From: M [REDACTED]
Sent: 25 August 2009 20:44
To: TIMMS, Stephen
Subject: BBC News article

Mr Timms

I am writing to you as minister for "Digital Britain" and not as my MP.

I've just read this BBC News article:

<http://news.bbc.co.uk/2/hi/technology/8219652.stm>

Could you please inform me:

- * How will the Government and/or ISPs be monitoring illegal file sharing activity?
- * How will the Government ensure that innocent parties are not affected by this proposal? For example, a father who needs Internet access for his work, whose access is removed because of the file sharing of his children.
- * Is the Government aware that many organisations (such as schools, colleges universities and companies) share a single IP address for web access to the outside world? This would potentially "criminalise" everyone at a institution if even only one person were illegally sharing files.

- * Who will the the judge and jury in deciding whether to remove someone's Internet access?
- * Why did you and your colleagues not wait until 2012 for these proposals to be properly thought through, as per the Digital Britain report?
- * Was the proposal affected by Mr Mandelson's meeting with David Geffen?
- * Is this proposal compatible with basic human rights?
- * Is this proposal legal?

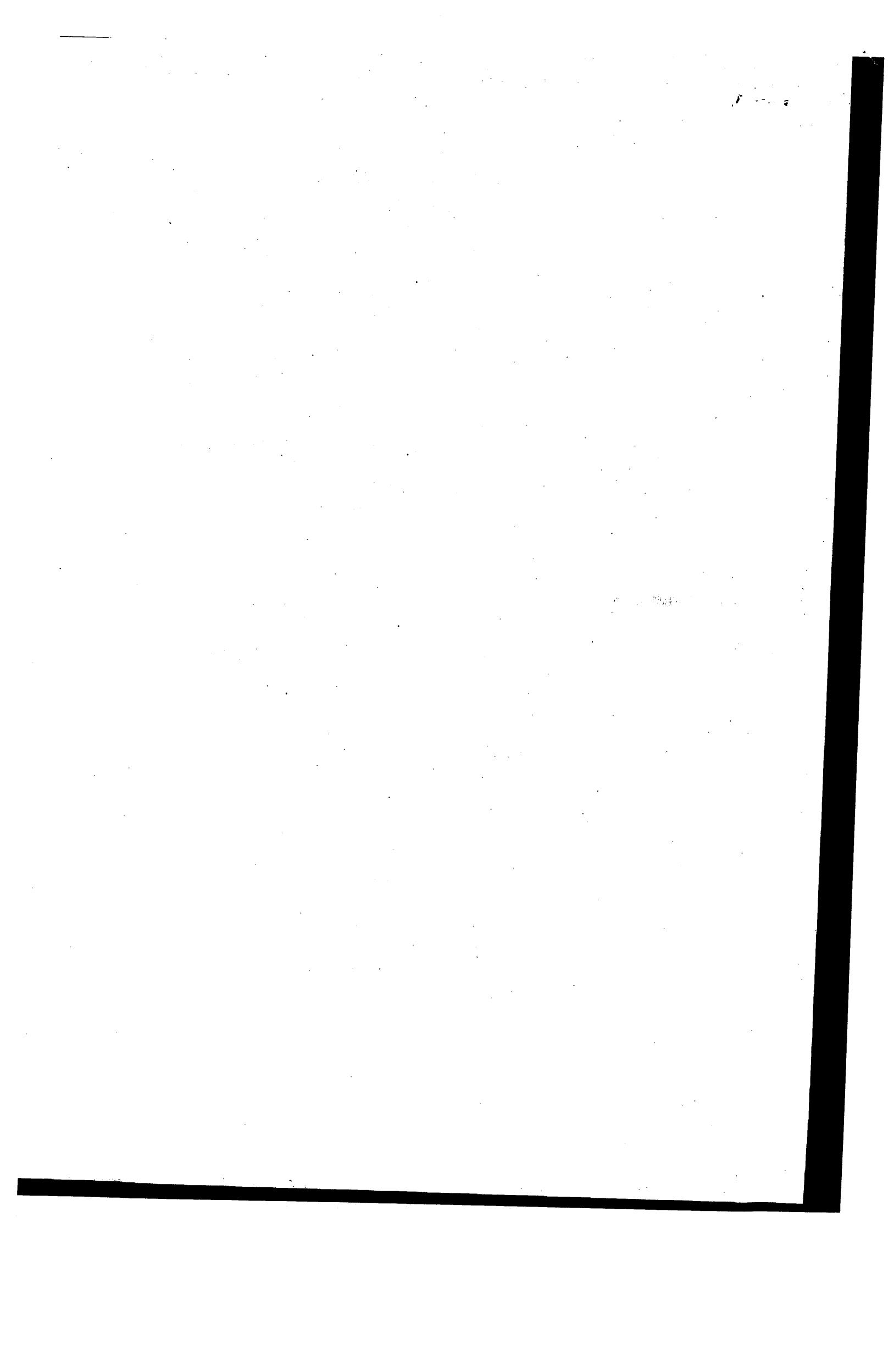
My interest is as an IT professional with 25+ years experience in the business.

Look forward to hearing from you.

Thanks

M. [REDACTED]

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BIS Ref /148088

[REDACTED]

22 September 2009

Dear Mr [REDACTED]

Thank you for your email of 25 August to Stephen Timms, about possible Government action to prevent unlawful downloading from the internet. Ministers receive far more correspondence than they are able to respond to personally, so this letter has been passed onto me to reply.

Government proposes to legislate to ensure that consumers whose broadband account has been identified in connection with alleged copyright infringement would be alerted by letter. This would set out the legal position but also provide pointers for help and information on, for example, how to protect wireless networks properly, where to find legal sources and routes of appeal. This letter would come from the Internet Service Providers (ISP) concerned, not a law firm. This should help address many concerns about individuals being wrongly identified, not having the correct information or indeed feeling pressured by the threat of legal action.

For those individuals who choose to ignore the letter, they will receive a number of further warnings before they are ultimately added to a list of those subscribers most frequently alleged to have breached copyright. Rights holders will be able to use a court order to obtain the details of these individuals and then take targeted legal action as appropriate. This should ensure that individuals have ample opportunity to change their behaviour, take appropriate action to, for example, secure their wireless connection or indeed appeal. It would also mean that only those who chose to ignore the warnings and who appeared to continue to infringe copyright on a large scale would face legal action.

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As a final safeguard, this activity would be underpinned by a Code overseen by the independent regulator the Office of Communications (Ofcom). A key issue the Code would have to cover is consumer protection – one of Ofcom's prime roles. However, we are breaking new ground in legislating to tackle this type of activity and while we are confident these measures will significantly reduce the level of unlawful file-sharing, we cannot be sure. That is why 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.

We committed in the interim Digital Britain report to consult on the detail of the legislative proposals and this consultation was issued on 16 June. Following this, concern was expressed at the length of time it would take to implement these measures – or indeed move to technical measures. We therefore decided to modify these proposals and issued a statement on 25 August explaining our thinking. You would be welcome to respond by the closing date of 29 September. The consultation and statement can be found at:

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

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 would raise significant issues, including human rights, and would require a very rapid appeal mechanism to ensure it was not wrongly applied. However we stress this is very much a consultation and no decision on whether suspension should be included has been taken.

Consumer protection is a key factor covered in the consultation. The legislation will require the Code to provide routes of appeal for consumers. This Code will require the approval of the regulator, Ofcom. In the consultation itself, we also make 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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There is no proposal to require ISPs to monitor for unlawful file-sharing. 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 file-sharers was included in the 2008 consultation document.

Yours sincerely

A large black rectangular redaction mark covering a signature.

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