



Digital Economy Act 2010

2010 CHAPTER 24

Online infringement of copyright

12 Contents of code about obligations to limit internet access

After section 124I of the Communications Act 2003 insert—

“124J Contents of code about obligations to limit internet access

- (1) The criteria referred to in section 124I(4) are—
- (a) that the requirements concerning enforcement and related matters are met in relation to the code (see subsections (2) and (3));
 - (b) that the requirements concerning subscriber appeals are met in relation to the code (see section 124K);
 - (c) that it makes any provision about contributions towards meeting costs that is required to be included by an order under section 124M;
 - (d) that it makes any other provision that the Secretary of State requires it to make;
 - (e) that the provisions of the code are objectively justifiable in relation to the matters to which it relates;
 - (f) that those provisions are not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (g) that those provisions are proportionate to what they are intended to achieve; and
 - (h) that, in relation to what those provisions are intended to achieve, they are transparent.
- (2) The requirements concerning enforcement and related matters are—
- (a) that OFCOM have, under the code, the functions of administering and enforcing it, including the function of resolving owner-provider disputes;
 - (b) that there are adequate arrangements under the code for OFCOM to obtain any information or assistance from internet service providers or

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- copyright owners that OFCOM reasonably require for the purposes of administering and enforcing the code; and
- (c) that there are adequate arrangements under the code for the costs incurred by OFCOM in administering and enforcing the code to be met by internet service providers and copyright owners.
- (3) The provision made concerning enforcement and related matters may also (unless the Secretary of State requires otherwise) include, in particular—
- (a) provision for the payment, to a person specified in the code, of a penalty not exceeding the maximum penalty for the time being specified in section 124L(2);
 - (b) provision requiring a copyright owner to indemnify an internet service provider for any loss or damage resulting from the owner's infringement or error in relation to the code or the copyright infringement provisions.
- (4) In this section “owner-provider dispute” means a dispute that—
- (a) is between persons who are copyright owners or internet service providers; and
 - (b) relates to an act or omission in relation to a technical obligation or a technical obligations code.”

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