



Digital Economy Act 2010

2010 CHAPTER 24

Online infringement of copyright

3 Obligation to notify subscribers of reported infringements

After section 124 of the Communications Act 2003 insert—

“Online infringement of copyright: obligations of internet service providers

124A Obligation to notify subscribers of copyright infringement reports

- (1) This section applies if it appears to a copyright owner that—
 - (a) a subscriber to an internet access service has infringed the owner’s copyright by means of the service; or
 - (b) a subscriber to an internet access service has allowed another person to use the service, and that other person has infringed the owner’s copyright by means of the service.
- (2) The owner may make a copyright infringement report to the internet service provider who provided the internet access service if a code in force under section 124C or 124D (an “initial obligations code”) allows the owner to do so.
- (3) A “copyright infringement report” is a report that—
 - (a) states that there appears to have been an infringement of the owner’s copyright;
 - (b) includes a description of the apparent infringement;
 - (c) includes evidence of the apparent infringement that shows the subscriber’s IP address and the time at which the evidence was gathered;
 - (d) is sent to the internet service provider within the period of 1 month beginning with the day on which the evidence was gathered; and
 - (e) complies with any other requirement of the initial obligations code.

- (4) An internet service provider who receives a copyright infringement report must notify the subscriber of the report if the initial obligations code requires the provider to do so.
- (5) A notification under subsection (4) must be sent to the subscriber within the period of 1 month beginning with the day on which the provider receives the report.
- (6) A notification under subsection (4) must include—
- (a) a statement that the notification is sent under this section in response to a copyright infringement report;
 - (b) the name of the copyright owner who made the report;
 - (c) a description of the apparent infringement;
 - (d) evidence of the apparent infringement that shows the subscriber’s IP address and the time at which the evidence was gathered;
 - (e) information about subscriber appeals and the grounds on which they may be made;
 - (f) information about copyright and its purpose;
 - (g) advice, or information enabling the subscriber to obtain advice, about how to obtain lawful access to copyright works;
 - (h) advice, or information enabling the subscriber to obtain advice, about steps that a subscriber can take to protect an internet access service from unauthorised use; and
 - (i) anything else that the initial obligations code requires the notification to include.
- (7) For the purposes of subsection (6)(h) the internet service provider must take into account the suitability of different protection for subscribers in different circumstances.
- (8) The things that may be required under subsection (6)(i), whether in general or in a particular case, include in particular—
- (a) a statement that information about the apparent infringement may be kept by the internet service provider;
 - (b) a statement that the copyright owner may require the provider to disclose which copyright infringement reports made by the owner to the provider relate to the subscriber;
 - (c) a statement that, following such a disclosure, the copyright owner may apply to a court to learn the subscriber’s identity and may bring proceedings against the subscriber for copyright infringement; and
 - (d) where the requirement for the provider to send the notification arises partly because of a report that has already been the subject of a notification under subsection (4), a statement that the number of copyright infringement reports relating to the subscriber may be taken into account for the purposes of any technical measures.
- (9) In this section “notify”, in relation to a subscriber, means send a notification to the electronic or postal address held by the internet service provider for the subscriber (and sections 394 to 396 do not apply).”