



Digital Economy Act 2010

2010 CHAPTER 24

Online infringement of copyright

5 Approval of code about the initial obligations

After section 124B of the Communications Act 2003 insert—

“124C Approval of code about the initial obligations

- (1) The obligations of internet service providers under sections 124A and 124B are the “initial obligations”.
- (2) If it appears to OFCOM—
 - (a) that a code has been made by any person for the purpose of regulating the initial obligations; and
 - (b) that it would be appropriate for them to approve the code for that purpose,they may by order approve it, with effect from the date given in the order.
- (3) The provision that may be contained in a code and approved under this section includes provision that—
 - (a) specifies conditions that must be met for rights and obligations under the copyright infringement provisions or the code to apply in a particular case;
 - (b) requires copyright owners or internet service providers to provide any information or assistance that is reasonably required to determine whether a condition under paragraph (a) is met.
- (4) The provision mentioned in subsection (3)(a) may, in particular, specify that a right or obligation does not apply in relation to a copyright owner unless the owner has made arrangements with an internet service provider regarding—
 - (a) the number of copyright infringement reports that the owner may make to the provider within a particular period; and

Status: This is the original version (as it was originally enacted).

- (b) payment in advance of a contribution towards meeting costs incurred by the provider.
- (5) The provision mentioned in subsection (3)(a) may also, in particular, provide that—
 - (a) except as provided by the code, rights and obligations do not apply in relation to an internet service provider unless the number of copyright infringement reports the provider receives within a particular period reaches a threshold set in the code; and
 - (b) if the threshold is reached, rights or obligations apply with effect from the date when it is reached or from a later time.
- (6) OFCOM must not approve a code under this section unless satisfied that it meets the criteria set out in section 124E.
- (7) Not more than one approved code may have effect at a time.
- (8) OFCOM must keep an approved code under review.
- (9) OFCOM may by order, at any time, for the purpose mentioned in subsection (2)—
 - (a) approve modifications that have been made to an approved code; or
 - (b) withdraw their approval from an approved code,with effect from the date given in the order, and must do so if the code ceases to meet the criteria set out in section 124E.
- (10) The consent of the Secretary of State is required for the approval of a code or the modification of an approved code.
- (11) An order made by OFCOM under this section approving a code or modification must set out the code or modification.
- (12) Section 403 applies to the power of OFCOM to make an order under this section.
- (13) A statutory instrument containing an order made by OFCOM under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”