

DIGITAL ECONOMY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Topic 3: Powers in relation to internet domain names

Section 19: Powers in relation to internet domain registries

92. This section amends the Communications Act 2003 (“the 2003 Act”) by inserting a new section 124O. The section applies where the Secretary of State wishes to use the new powers set out in sections 20 and 21 and is satisfied that there has been a serious failure of a registry because:
- The registry itself, its end-users (that is, owners of or applicants for domain names) or registrars (that is, agents of end-users) have been engaging in practices prescribed in regulations made by the Secretary of State which are unfair or which involve the misuse of internet domain names; or
 - The registry’s arrangements for dealing with complaints in connection with domain names do not comply with requirements prescribed in regulations made by the Secretary of State.
93. Possible examples of unfair practices would be cyber-squatting (that is, registering domain names which are of economic value to other people and then charging those people high prices to buy them or use them for their own purposes); drop-catching (that is, waiting until the expiry date for an existing registered domain name, snatching it and then charging the previous owner to buy it back); or pressure sales tactics.
94. Possible examples of the misuse of internet domain names would be registering intentionally misleading domain names, perhaps using them for phishing (a form of internet fraud); distributing malware or spyware, which are computer viruses; spamming; intentionally misleading the public into believing there is a connection between the domain name owner and other organisations (or that another organisation owns or authorises the use of the domain name).
95. The Secretary of State is required to consult before making regulations prescribing the unfair practices and misuse of domain names or the requirements in relation to arrangements for dealing with complaints.
96. The section provides that such a failure will be serious where it has adversely affected or is likely adversely to affect the reputation or availability of electronic communications networks or services provided in the UK, or the interests of consumers or the public in the UK.
97. Where the section applies, the Secretary of State must notify the registry specifying the failure and a period within which the registry may make representations to the Secretary of State. In practice, the Secretary of State may (if he considers it appropriate in the circumstances) require OFCOM to prepare a report on the allocation, registration and/or misuse of internet domain names by UK-based registries under section 134C (inserted by section 1(1)) before exercising his powers.