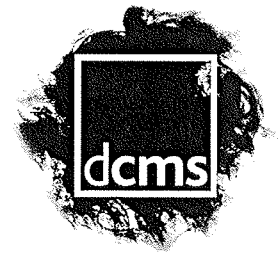


CMS 212517/DC

Jim Killock  
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department for  
culture, media  
and sport

2 August 2012

Dear Jim

When we last met, you expressed concern about the lack of clarity surrounding the application of the Digital Economy Act 2010 (DEA) mass notification system to libraries and universities. I hope you will find it reassuring that Ofcom are working with representatives of libraries, universities and museums to improve understanding and support for public intermediaries.

I should summarise how the draft Initial Obligations Code is expected to affect public intermediaries. The draft Initial Obligations Code will apply to ISPs providing more than 400,000 fixed lines giving broadband internet access – these ISPs are known as qualifying ISPs. Please note that the threshold for qualifying ISPs does not take into account numbers of (public) Wi-Fi users, only fixed lines count. Public intermediaries offering internet access for library members and students provide fewer than 400,000 fixed lines, and are therefore likely to be classed as non-qualifying ISPs rather than subscribers, and to the extent that they are ISPs they will not be bound by the Code. For example, if a copyright owner sends a copyright infringement report to a public intermediary that is acting as an ISP, they will not be required to act on it. I note concerns within the library and educational sector that Ofcom may reduce the fixed line threshold for qualifying ISPs. Ofcom currently have no such plans, but any future changes to the Code would need to be publicly consulted on, approved by Government and laid before Parliament.

Exact details of how public intermediaries can register their status with their upstream qualifying ISP will be worked out as part of the implementation process. Ofcom and DCMS will continue to engage with ISPs and copyright owners to ensure that there is sufficient clarity for public intermediaries.



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There may be instances when a public intermediary should be classed as a subscriber. I anticipate that guidance issued by the independent appeals body, as well as Ofcom's work with representatives of public intermediaries will bring further clarity to help organisations make this distinction, and I do recognise that there remains work to be done in this area. However, since it is not the intention of any of the participants to target public intermediaries – and indeed it would be a waste of resource for both ISPs and copyright owners to do so – I am optimistic that a practical solution may be found.

I have strongly encouraged libraries and universities to take steps to protect their networks from misuse, and I understand that many already do this, and consequently have low levels of online copyright infringement. This is after all crucial to prevent copyright owners reporting infringement of copyright in the first place. I am also pleased to see the lead taken by organisations such as JANET to help their users to understand how they may be affected by the mass notification system.

I hope you find this information useful.

A handwritten signature in black ink, appearing to read 'Ed Vaizey'.

**Ed Vaizey MP**  
**Minister for Culture, Communications and Creative Industries**