

UK search: the way ahead

The UK internet economy:

The UK internet economy now accounts for over 7.2 per cent of UK GDP and is forecast to grow to over 10 per cent by 2015. The UK leads the world at e-commerce: online, the UK now exports three times more than it imports. We have become a nation of digital shopkeepers, with small businesses online growing over four times faster than those offline. This rapid growth in the digital economy continues to create jobs – with some estimates suggesting 350,000 jobs over the next five years.

The Coalition Government has made clear that it both recognises the value of the UK economy and is committed to nurturing its growth.

"I am committed to making the UK the best place in the world to start, run and grow a hi-tech company." Prime Minister, 29 September 2011

In his September 2011 speech to the Royal Television Society, the Secretary of State for Culture, Media and Sport echoed the Government's commitment to hi-tech growth and described how, with the right conditions, this could create huge opportunities for the creative content industries in the UK:

"The first priority must be to capitalise on the extraordinary opportunity presented by our digital and creative industries. It is an opportunity that is probably bigger for this country than any in the world except the United States. That is because we are the second largest producer of digital content in the world and the internet makes it possible to distribute that content worldwide at close to zero cost."

However just as the internet creates fantastic opportunities to distribute UK creative content worldwide, it also brings with it new and disruptive challenges, and the Secretary of State is seeking to help strengthen copyright enforcement in order to support those who create content.

Supporting the Secretary of State's multi-stakeholder approach:

UK internet users are world leaders in their use of innovative digital content and online e-commerce services. At the same time, the UK creative industries are world leaders in innovative, commercially successful content of all kinds.

The UK can continue holding both of these leadership positions if the right solutions to online copyright infringement can be agreed, which truly focus on the root causes of piracy, and target enforcement in a proportionate way. Disproportionate measures would deter inward investment, stifle legitimate innovation, and make it harder for new artists to break through. We therefore support the Secretary of State's efforts to facilitate cross-industry dialogue to address industrial-scale piracy. In addition, Google, Microsoft and Yahoo! will continue to help audiences find high-quality content online.

According to the latest figures from the BPI, digital revenues grew by 24.7 per cent in 2011 to account for 35.4 per cent of overall sales – in particular, digital albums were up 43.2 per cent year-on-year. "It is highly encouraging for the long-term prospects of the industry that the pace of digital growth continues to accelerate," says chief executive Geoff Taylor. More needs to be done but we are confident that we are on the right track with respect to the development of legal services for entertainment content online.

Google, Microsoft and Yahoo! continue to explore and conclude innovative partnerships with the creative industries – built around providing access to more content for more users.

Tackling copyright infringement on the internet:

As search engines, we put our users first. Our policies are built around that principle. It is vital that as we seek to work with the Secretary of State and the rightsholders to tackle online copyright infringement that this principle of putting users first is not overturned.

Search engines play a vital role in free speech, creativity, expression, and innovation by organising billions of web pages in a way that they can be more easily discovered by internet users. Search engines benefit creators and rightsholders by helping connect users to artists and content producers.

Search engines are not the source of infringing content. Removing links from a search engine does not remove illicit content from the internet.

Rightsholders have the primary responsibility for protecting their intellectual property, and are in the best position to identify their intellectual property and evaluate potential infringement.

The violation of intellectual property rights is an issue search engines take seriously and have policies and practices in place to address. However, without specific, reliable notices from rightsholders, search engines lack the knowledge and capability to identify and address infringement without inadvertently disrupting the free flow of information on the internet.

Search engines aid rightsholders in their efforts to enforce their rights by providing robust and effective copyright notice and takedown systems which allow for the expeditious removal of problematic links and advertisements from the search engine's database. Rightsholders must participate fully in the notice and takedown system for it to be maximally effective and expeditious in addressing the shared goal of reducing infringement.

To that end, this document sets out general principles rightsholders and search engines should follow to address online infringement effectively.

1. Principles for ensuring effective and expeditious copyright notice and takedown – search engines:

- Search engines should have a method to allow rightsholders to provide notice regarding links to infringing materials indexed by the search engine;
- Search engines should have procedures for expeditiously processing valid takedown notices from rightsholders;
- To further free speech, creativity, expression, and innovation online, it is appropriate for search engines to consider counter-notices from those affected by takedown requests and who seek to challenge the basis of those requests;
- Search engines will continue to work with rightsholders to improve notice and takedown practices and systems to eliminate inefficiencies in the processing of takedown notices.

2. Principles for ensuring effective and expeditious copyright notice and takedown – rightsholders:

- Rightsholders should seek removal of infringing content directly from the infringing actor or from the online hosting service before seeking remedies from search engines;
- Rightsholders should limit their removal request to links actually offered by a search engine in its results or advertisements;
- Rightsholders should substantiate their ownership of allegedly infringing IP and their claims of infringement of their IP;
- Rightsholders should narrowly and specifically identify infringing content in their takedown notices and must issue such notices only after assessing their impact on any non-infringing uses and concluding that the takedown would not have an adverse effect on such non-infringing uses;
- Rightsholders should agree to a reasonable procedure for sites or advertisers to file counter-notices that contest the takedown demand, allow for restoration of the content under appropriate circumstances, and eliminate liability of search engines for restoring content in response to counter-notices;
- Rightsholders should be accountable for improper notices, e.g. through the failure to properly identify infringing material or limit the negative effect on non-infringing uses;
- Rightsholder should support transparency in the takedown process, by ensuring that notices be made publicly available with only minimal redactions to protect privacy interests;
- Rightsholders should not pursue legal action against search engines for content that they link to unless they have first submitted takedown notices meeting the standards described above, and the search engine has refused to remove the specific noticed links.

3. Leading industry efforts to protect advertisers from association with infringing content:

- Our businesses are also damaged by misplacement of advertising against inappropriate content. The advertising networks and exchanges we own operate in highly competitive spaces, and rely on building and maintaining the trust of our advertiser clients. We already have strong commercial incentives to avoid placing advertising against copyright infringing material, so where instances do occur, they are rectified swiftly.
- Along with our own efforts, all three companies are active members of the Internet Advertising Bureau, and are involved in the evolving system for online self-regulation. Our advertising networks are all IASH signatories, and we take our responsibilities in this respect very seriously. We are constantly vigilant to the dangers of misplacement of advertising online, as this fundamentally affects our ability as businesses to maintain the trust of our valued advertiser clients.
- The online advertising world is constantly changing, and now involves a bewildering array of different players and technologies. The self-regulatory system must, and will, evolve to encompass these changes.

Ongoing, multi-stakeholder engagement:

We appreciate the role the Secretary of State has played in engaging all stakeholders in meaningful dialogue.

The interconnected nature of the internet means that a well-intended but narrowly focused effort to address problems can have serious unintended consequences on the integrity of the internet and the rights of its users. Crafting effective action requires a holistic approach that includes the engagement of diverse stakeholders, especially those with deep understanding of both technical and human rights considerations.

Over the last few years in the UK, there has been steady and welcome growth in understanding between the creative industries and internet companies.

This document is written to play a part in furthering that understanding and providing a foundation for a progressive partnership with the creative industries that will reduce rates of copyright infringement.

We therefore commit to ongoing dialogue in the UK – in parallel with global efforts – with copyright owners and other stakeholders. In our view, this dialogue should focus on:

- Assessing and sharing insights into the changing nature of piracy and its technologies;
- Gathering intelligence about the effectiveness of all of the current interventions (injunctions, notice and takedown procedures etc.) and providing a forum to discuss their evolution.

This dialogue would inform, and be informed by, other dialogue at European level and beyond. The aim would be a steady progression of our commercial and policy responses to piracy in the UK, which takes due account of global developments.

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