

Sharing the blame

New law makes companies responsible for workplace surfing

Film makers and record companies have long argued that the fight against illegal file-sharing of unlicensed films and music can only be won with the help of Internet Service Providers (ISPs). Policymakers have answered their calls by giving new powers to Ofcom, the telecoms industry regulator, to set up and manage a code of practice to which ISPs must adhere. The new code is legally required to be operational by February 2011 and places significant responsibility on ISPs to monitor and record any illegal activity by their subscribers.

Piracy is at risk of making the film industry unprofitable according to The UK Film Council. Apparently the audio visual sector loses an estimated £459 million each year. BPI, the trade association for the UK recorded music industry, agrees. They highlight that the proliferation of unpaid for, and unlicensed online digital file-sharing, costs the UK music community an estimated £200m in 2009.

THE WORKPLACE: BREEDING GROUND FOR COPYRIGHT TRANSGRESSION

Peer-to-peer file distribution doesn't just take place in the home. Employees are just as likely to be doing it in the workplace - taking advantage of their fast corporate networks and anonymity to break the law. Most organisations don't have the technical ability or inclination to see how their Internet service is being used. Hence, most companies are the unwitting conspirators of copyright theft.

Hard lobbying by the digital right owning community to oblige Internet Service Providers (ISPs) to play an active part in addressing this problem has ultimately been successful. On 8th April 2010, the Digital Economy Act received Royal assent and gave Ofcom the responsibility to reduce online copyright



infringement. Ofcom must introduce a new code of practice by spring 2011. The regulator has already set out its proposals.

Copyright infringement bodies track illegal downloads by noting down the IP address from where the download emanates. Armed with this information they approach the ISP who owns the IP address. Under the new law, the ISP must now ensure they have the technical measures in place so as to be able to identify the subscribing consumer or organisation with that IP address. The ISP must:-

- store the infringement on a database
- send an infringement notice to the subscriber providing evidence, legal advice and appeals information
- maintain the infringement list
- receive and respond to requests from law enforcement bodies for the list of infringers.

The proposed code of practice gives copyright holders the ability to request information on the infringer list and pursue a court order to identify serial infringers and take legal action against them.

As an indication of how quickly things are moving, consultancy company, BWCS, have been tasked by Ofcom to look at the approaches ISPs are taking to fulfil their obligations and the associated costs they are likely to incur to do so. To give an idea of its scale, BWCS are assuming that between 4000-40000 copyright infringement notifications letters will be issued a month. The new law puts organisations at risk of legal prosecution and opens them up to the threat of £250,000 fines. Businesses must be seen to be doing more to police their Internet service and block inappropriate activity. Perhaps as a warning of what's coming down the line, the IFPI is warning on its website that companies must take more responsibility for how their employees use their Internet at work.

KEEPING COMPANIES ON THE RIGHT SIDE OF THE LAW

Exponential-e provides powerful corporate networks and managed ICT services to the business community. A premium Internet service called PowerNGN^{plus} is Exponential-e's antidote to the Digital Economy Bill

Using a self-service portal, IT staff can check to see what traffic is running over their Internet and from where it is being downloaded. It is possible to distinguish between illegal peer-to-peer traffic and business applications. With the capability delivered from Exponential-e's cloud, customers don't need to buy hardware to take advantage of the service. PowerNGN^{plus}' superior capabilities and simple deployment has been recognised by a leading innovation award.