



# Digital Economy Act 2010

## 2010 CHAPTER 24

### *Online infringement of copyright*

#### **12 Contents of code about obligations to limit internet access**

After section 124I of the Communications Act 2003 insert—

##### **“124J Contents of code about obligations to limit internet access**

- (1) The criteria referred to in section 124I(4) are—
  - (a) that the requirements concerning enforcement and related matters are met in relation to the code (see subsections (2) and (3));
  - (b) that the requirements concerning subscriber appeals are met in relation to the code (see section 124K);
  - (c) that it makes any provision about contributions towards meeting costs that is required to be included by an order under section 124M;
  - (d) that it makes any other provision that the Secretary of State requires it to make;
  - (e) that the provisions of the code are objectively justifiable in relation to the matters to which it relates;
  - (f) that those provisions are not such as to discriminate unduly against particular persons or against a particular description of persons;
  - (g) that those provisions are proportionate to what they are intended to achieve; and
  - (h) that, in relation to what those provisions are intended to achieve, they are transparent.
- (2) The requirements concerning enforcement and related matters are—
  - (a) that OFCOM have, under the code, the functions of administering and enforcing it, including the function of resolving owner-provider disputes;
  - (b) that there are adequate arrangements under the code for OFCOM to obtain any information or assistance from internet service providers or

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*Status: This is the original version (as it was originally enacted).*

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- copyright owners that OFCOM reasonably require for the purposes of administering and enforcing the code; and
- (c) that there are adequate arrangements under the code for the costs incurred by OFCOM in administering and enforcing the code to be met by internet service providers and copyright owners.
- (3) The provision made concerning enforcement and related matters may also (unless the Secretary of State requires otherwise) include, in particular—
- (a) provision for the payment, to a person specified in the code, of a penalty not exceeding the maximum penalty for the time being specified in section 124L(2);
  - (b) provision requiring a copyright owner to indemnify an internet service provider for any loss or damage resulting from the owner's infringement or error in relation to the code or the copyright infringement provisions.
- (4) In this section “owner-provider dispute” means a dispute that—
- (a) is between persons who are copyright owners or internet service providers; and
  - (b) relates to an act or omission in relation to a technical obligation or a technical obligations code.”