

DIGITAL ECONOMY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Topic 2: Online infringement of copyright

Section 15: Sharing of costs

77. The initial obligations and any later technical obligations will give rise to costs. These will include the cost to ISPs of processing copyright infringement reports and issuing subscriber notifications, the costs to ISPs associated with the imposition of any technical measures, OFCOM's costs in approving or preparing the codes, the cost of enforcing them, and the funding of any subscriber appeals to an independent appeals body or the First-tier Tribunal.
78. New section 124M of the 2003 Act, inserted by section 15, confers a power on the Secretary of State to specify by order provision which must be included in the codes and which sets out how costs are to be apportioned between copyright owners, ISPs and, in the case of subscriber appeals, the subscriber concerned. The order must be approved by both Houses of Parliament. The costs are those incurred under the copyright infringement provisions. The purpose of the section is to help ensure that the parties carry out their obligations in an efficient and effective manner and that both ISPs and copyright owners have economic incentives to take action through commercial agreements to reduce online infringement of copyright.
79. The government believes that most of the costs of subscriber appeals to an independent person determining appeals or to the First-tier Tribunal should be funded by industry, so that a subscriber does not face significant costs in making an appeal.