

The Digital Economy Bill



A presentation and discussion for
Brockley Ward Labour Party

So what?



- From June 2009,
 - until the day before Parliament was dissolved the Government piloted the Digital Economy Bill from inception to Act of Parliament
- What is the Digital Economy Bill?
- How did it become Law?
- What is the state of UK copyright law?
- What is the new technology?
- Why is the opposition so shrill?

What happened in Parliament?



- Digital Britain Report
 - June 2009
- Mandelson's Holiday
 - Good Lunch
- Dept. Consultation
 - Included anti copyright infringement measures
- Introduced in House of Lords
 - Nov 2010
- House of Commons
 - Human Rights committee
 - disproportionate
 - Introduced to House of Commons
 - 2nd Reading
 - 3rd Reading

Digital Britain Report



- Powers of OFCOM
 - arguably cosmetic
- Minimum broadband speed of 2 Mbps.
- £6 Tax on Phones
- Top slicing the licence fee
 - Pay for regional TV news
- Analogue Radio switch off
- Video Games Industry
 - Tax breaks & censorship
- Regulation of
 - Internet Names Authority
 - Channel 4
 - Electromagnetic Spectrum
 - Public Lending Rights
 - Libraries pay levy per/view not/copy of digital spoken work
- Orphan Works

How important is it?



- The Digital Britain Report made no mention of measures to reduce copyright infringement.
- All Government advice had been not to change the Law
- Department of Business launched consultation in August
 - Measures to reduce copyright infringement
 - Cut of Downloader's internet

Why 3 Strikes?



- Attempt to make a law that will take people's internet access away if they download copyrighted content
 - Borrows from US legislation
- US Legal Actions
 - Sueing the Fans
- The French Law, Hadoopi,
 - has a three offences threshold
- The US, DCMA mentions 3 infringements

Copyright



- Players
 - Authors
 - Distributors
 - Makers
 - Consumers
 - And now
 - Other customers of an ISP
- Issues
 - Fair Use
 - First Sale
 - How long?

Peer to Peer File Sharing



- Long History
- The Technology is about rationing scarce resource
 - Mainly Bandwidth
 - No Single Host
 - UK has a copper 'last mile' which is a bandwidth limitation
- Tech. Response to Napster
- What is it?
 - One Target/Many sources, each source offers a chunk
- Bit Torrent
 - All down loaders help the next one
 - Index, host, peer, leech

3 Strikes!



- Safe Harbour/Common Carrier Defence
- US DMCA, Digital Millennium Copyright Act
 - If an ISP acts in good faith, it can't be sued
 - Prohibits hacking encryption technology
 - Makes it illegal to download republish copyrighted material
- France – Hadoopi
 - 3 Strikes

How do they hunt the Baddies today?



- Who are the Baddies?
 - Industrial scale copying?
- But they don't!
 - In the US, they are sued down loaders for punitive damages
 - But decided suing the fans wasn't a good business model
- Viacom vs. Google
- Honeytraps
- In the UK,
 - until last month they threaten internet users with legal action
 - They've stopped for the moment; the lawyers have been referred to the Solicitor's council
 - they need to prove damage to the copyright holders and damages will be proportionate (99p/Song)
 - they need a court order to get the names of a computer user and then need to prove that the owner was the downloader

Parliament



- House of Lords
 - Henry VIII Clause
 - SoS Biz to issue Statutory Instruments to change copyright law
 - Future proofing the Law
 - Web Site Blocking
 - Lib Dem Amendment
 - Government Amendment
 - 'likely to be used'
- House of Commons
 - Complex
 - Enabling Legislation
 - 3 Strikes
 - ! 3 Strikes
 - Lib Dem Amendment
 - Web Site Blocking
 - 3rd Reading Vote
 - LP 3 line whip

What next?



- OFCOM are writing the rules for the next stage
 - Rules of Evidence
 - Cost sharing
 - Duties of participants
 - Only large ISPs will be required to track downloaders
- BT/Talk Talk are seeking judicial review
 - To see if the Law is conformant with EU law
 - On privacy, internet access and telco regulation
 - The French Law has been struck down twice by the courts; no loss of internet without a judge

Why its a bad law!



- Doesn't create wealth
 - It reinforces monopoly
 - Which copyright holders abuse
- Poor Industrial Policy
 - ISPs vs Copyright holders
 - Software and IT Manufacturers
- International Trade
 - Sony, Vivendi, Universal & EMI
- Distorts the growth/development of the Internet
 - Wifi vs 3G
 - Size of ISP
 - Encryption
- Bad Law
 - Moral Hazard
 - Creates new rights
- Civil Liberties
 - See Next Page

Civil Liberties



- Civil Liberties
 - Basic Rights
 - Right to Culture,
 - Freedom of Speech
 - Innocent 'till proved guilty
 - Right to Education
 - Right to Privacy
 - Disconnection is disproportionate
 - HoC Human Rights Committee
 - UN Declaration on Human Rights
 - European Human Rights Charter

Music Industry Economics



- Average Wage of a musician is £15,000 p.a.
 - Fergal Sharkey, “The Internet Police” Panorama
 - The UK average is c £25,000
- 80% of the world's traded music is sold by 4 companies
 - Only one of these is quoted on a GBP exchange
- The British music industry had a record year in 2009
- Downloaders buy more music
- Piracy costs UK Music £400m?
 - DE Bill enforcement measures estimated to cost £250m



The End