

# 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
  - 2<sup>nd</sup> Reading
  - 3<sup>rd</sup> 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
  - 3<sup>rd</sup> 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