# [GB] Adoption of the Digital Economy Act 2010

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The Digital Economy Act received royal assent on 8 April 2010 and came into force (with the exception of certain sections which were granted immediate effect) on 8 June 2010. The Act is intended to regulate digital media and, to a large extent, implements the legislative proposals of last summer's Digital Britain report (see IRIS 2009-8: 14/20). The Act includes provisions relating to the UK's communications infrastructure, public service broadcasting, copyright licensing and online infringement of copyright, as well as security and safety online and in video games. Most of the provisions of the Act constitute amendments to other statutes.

The Act's most controversial provisions are those related to copyright infringement. The system of law introduced by the Act envisages the imposition of obligations on Internet Service Providers (ISPs) to cooperate with rightsholders with the intention of combating online copyright infringement. In addition, it provides for the possibility of granting power to the Secretary of State to impose obligations on ISPs to take technical measures against infringing subscribers, including the suspension of online access. The Secretary of State is also empowered to make regulations giving the courts the power to order blocking injunctions in relation to specific websites that are being or are likely to be used for copyright infringement. Most operational details concerning these provisions are not included in the Act itself, but left to secondary regulation in the form of a series of regulatory codes to be drafted by Ofcom.

Other provisions cover the following:

- Introduction of requirements that the sectoral regulator, Ofcom, carry out an assessment of the UK's communications infrastructure every three years;

- In relation to Internet domain registries, introduction of reserve powers in respect of efficient and effective management and distribution of Internet domain names;

- Adjustments to the functions of Channel 4 Television Corporation from a focus on traditional broadcast activities to include the provision of public service media content on other platforms, including the Internet;

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- Enabling future alterations of the Channel 3 and Channel 5 licenses, including adjusting the requirements on Channel 3 licence-holders to produce or broadcast Gaelic programming and allowing Ofcom to provide advice to the Secretary of State on future Teletext licences;

- Providing arrangements for switchover to digital radio by making changes to the existing radio licensing regulatory framework, varying the conditions for multiplex licence-holders and facilitating the relaxation of the localness requirements of local licences;

- Access to electromagnetic spectrum to allow for the charging of periodic payments on auctioned spectrum licences and confer more proportionate enforcement powers on Ofcom;

- Introduction of changes to the UK video game classification system;

- Extending the Public Lending Right scheme to non-traditional book formats (e.g., e-books);

Since its adoption the Digital Economy Act has given rise to heated debate as to the appropriateness of the mechanisms it envisages, particularly as concerns copyright infringement provisions. In July 2010, TalkTalk and BT filed papers with the High Court requesting judicial review of the Act, while a group of MPs have called for the amendment of the Act.

### *Digital Economy Act 2010*

http://www.legislation.gov.uk/ukpga/2010/24/contents

### *Digital Britain Report*

http://webarchive.nationalarchives.gov.uk/20100511084737/interactive.bis.gov.uk/digitalbritain/

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