

Commercial Update

February 2010

Digital Economy Bill - Leisure Sector

The Digital Economy Bill ("Bill") is currently before the House of Lords undergoing the committee stage readings. The Bill introduces provisions in a number of areas which together form the latest move against illegal downloading in the UK. There are, however, concerns in the hospitality industry that certain provisions will have a damaging impact on hotels, pubs and cafes.

The Bill provides that Internet Service Providers ("ISPs") will have to issue reports on copyright infringements and detail the type and time of internet contact. While liability appears to rest with the ISPs to identify the location of an infringement, hotels would be required to provide guest details and then issue the guest with the copyright report. This is something which is unrealistic according to the British Hospitality Association ("BHA").

In terms of identifying guests who infringe copyright, the BHA is concerned that wireless users will be difficult to find and those with prepaid cards will be impossible to identify.

Another complication is that with the copyright infringement notices usually being received two or three days after the alleged incident occurs, it is likely that the hotel guest will have checked out by the time the hotels receive the notification from the ISPs.

The BHA is concerned that hotels might be disconnected if guests are persistently infringing copyright. Whether that possibility will apply has not yet been clarified in the

Bill but is a serious concern. Disconnection would endanger a hotel's business which the BHA said would be a "grossly unfair consequence" of a guest's action.

"If it is passed in its present form, the difficulties of applying this bill to the hospitality industry, with its transient profile, appear not to have been considered," said Martin Couchman, deputy chief executive of the BHA.

As the Bill is in its early stages, it is anticipated that the content of the Bill will undergo a number of amendments before reaching its final form. The hospitality industry as a whole will be waiting with bated breath...

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