Dear Huw

Thank you for your letter of 25 November to Peter Mandelson, enclosing correspondence from your constituent, [name and address withheld], about the need for universal access to broadband and possible Government action to prevent unlawful downloading from the internet. I am replying as this matter falls within my portfolio.

Our aim is to stimulate broadband availability across the whole of the UK, at adequate speeds and competitive prices. The Government wants to see all communities, irrespective of location, having access to an affordable broadband service from a competitive market.

The Budget on 22 April confirmed the Government’s commitment to delivering a Universal Service in broadband at a speed of 2 Megabits per second, by no later than 2012. In the Digital Britain White Paper, published on 16 June we set out our plan to achieve the Universal Service Commitment in relation to broadband. The Government will invest approximately £200 million to support this. The Government has established an arm’s length body, the Network Design and Procurement Company to deliver this commitment.

2Mbps is a sufficient speed to enjoy most of the services currently available over the internet, but this is the minimum speed that we want to see across the country, not the maximum. The White Paper can be seen at: [http://www.culture.gov.uk/what_we_do/broadcasting/6216.aspx](http://www.culture.gov.uk/what_we_do/broadcasting/6216.aspx).

Plans to ensure the delivery of High-Speed Broadband include a proposal to levy a small supplement of 50p per month on all fixed telephone lines to create a Next Generation Fund to ensure High Speed Broadband reaches the Final Third of the country that the market will not deliver to. The Network Design and Procurement Company will be responsible for administering the Next Generation Fund, alongside the Universal Service Commitment proposals.

The Digital Britain White Paper makes it clear that we believe that access to the internet is becoming increasingly important to everyone. We are reaching a tipping point in relation to the online world as it moves from conferring advantage on those who are in it to conferring active disadvantage on those who are not. Nearly 40% of the population does not currently have internet access at home. The reasons for this vary. We look at them in relation to availability, affordability, capability and relevance. The Digital Britain White Paper sets out our plans to address each of these obstacles. The fixed line levy is one component of the response to the challenge of availability, but it should be seen in the context of other activities, such as the £300m Home Access Scheme for low income families, the Digital Inclusion Programme, with Martha Lane Fox as the new Champion for Digital Inclusion and the plans set out in the Report for a National Plan for Digital Participation which combines an improved offer to increase motivation to get online, with social networking and outreach, and with skills training.

The Government wants as many people as possible to enjoy all the benefits that broadband internet can bring. New technology has changed the way people want to use and access media content, in some cases faster than products and services commercially on offer have developed. We are also clear that the benefits of the internet must include economic benefits for our creative industries and artists. We therefore take extremely seriously the problem of on-line copyright infringement, and have been working closely with rights holders, media companies and internet firms to develop practical solutions to reduce and prevent this.

Whilst all parties would prefer a voluntary solution, rather than regulatory, it is clear that such a commercial solution is very difficult to achieve. We recognise that one problem is the need for a level playing field and therefore acknowledge the need for a regulatory baseline.

The Digital Economy Bill, published on 20th November, sets out in detail our proposed legislation to tackle on-line copyright infringement, including unlawful P2P file-sharing. The Bill will implement many of the key recommendations in the Government’s Digital Britain Report (June 2009).
can be found at: http://www.dcms.gov.uk/what_we_do/broadcasting/5631.aspx. The details on the Bill can be found at: http://interactive.bis.gov.uk/digitalbritain/digital-economy-bill.

In a nutshell these are obligations which would require ISPs to write to subscribers whose account has been identified in connection with a copyright infringement. The ISPs will also be required to provide information in such a way that rights holders would be able to take targeted court action against the most serious infringers. It should be stressed that at no time will rights holders be able to obtain personal details of individuals from ISPs without a court order. Finally, although we feel these measures represent the most proportionate and effective way to reduce file-sharing significantly, we cannot be sure. We therefore included a reserve power to allow a further obligation to be placed on ISPs in the future if required. This obligation would require technical measures to be applied to the subscriber’s account with the aim of restricting or preventing file-sharing.

We added account suspension to the list of possible technical measures which might be considered if our measures to tackle unlawful file-sharing through notifications and legal action are not as successful as we hope. This is but one of a number of possible options on which we would seek advice from Ofcom – and others – if we decided to consider a third obligation on technical measures. However what is clear is that we need a rapid and robust route of appeal available to all consumers if we decided technical measures were needed.

More widely we also include a reserve power to amend the Copyright Design and Patent Act. This will allow us to tackle quickly any misuse of emerging technologies for copyright infringement and provide an element of future proofing. These measures were adopted following two consultations on file-sharing and extensive meetings with all stakeholders. Both consultations, the representations made and the Government’s responses can be found at: http://www.bis.gov.uk/consultations.

Consumer protection is a key factor covered in the legislation. The obligations will require an underpinning Code to provide routes of appeal for consumers. This Code will require the approval of the regulator, Ofcom.

We anticipate that an independent body will be set up to hear cases of subscribers who feel they have been wrongly linked to an infringement. In the event that we do decide a further obligation to introduce technical measures against serious infringers is required, we will add a second layer by allowing appeals on decisions by the independent body to be heard by a Tier 1 Tribunal. We will also ensure that the costs involved in accessing the Tribunal do not act as a deterrent to those who feel they have a genuine case.

We recognise that any solution must protect individuals’ privacy. We are confident that the legislation will protect the rights of the consumer, complies with relevant data protection legislation, and with the e-Commerce Directive, under which ISPs cannot be placed under a general obligation to monitor internet traffic. It is also compliant with EU legislation and the recently agreed Telecoms Package.

We also recognise the need to ensure proper education of consumers, for new attractive legal sources of content as well as a system of notifications. Notifications will play a significant part in that education role, but it is vital that there are attractive legal offers available so that unlawful behaviour is no longer the “default” for many seeking content on-line. That is why we welcomed the announcements such as the Virgin Media and Universal agreement, the development of Spotify and the music offers announced by Vodafone and Sky. These are the types of agreement which will play a critical role in moving the great majority of people away from piracy.

The UK Intellectual Property Office launched the Copyright Strategy report ‘© The Way Ahead’ on 28 October 2009. This work looks ahead to how copyright can tackle the challenges of the digital age, drawing on previous work including Digital Britain and the Gowers Review of Intellectual Property, on international perspectives including the European Commission’s, and on discussions and submissions from stakeholders.

The Government wants a copyright system that works as well as it can for everyone in the UK, supporting investment and sustaining jobs, we well as underpinning out cultural life, and supporting consumers to get the best from digital technology.

Please thank your constituent for taking the trouble to raise this issue with us.

Stephen Timms