

Pub owners fined £8000 for customer download

In an unprecedented case, a pub owner has been fined £8000 for an unlawful download of copyrighted material by a customer using its open wireless hotspot to access The Cloud, wireless broadband network. The case brought in a civil action arguably sets a precedent in the UK.

Internet law expert Lilian Edwards of Sheffield Law school said that under "existing substantive copyright law", businesses operating an open wireless hotspot "would not be responsible in theory" for downloads.

The much anticipated Digital Economy Bill proposes that "subscribers" can be penalised by a proposed disconnection policy. According to Lilian Edwards, a pub providing open access in this way would be a public communications service provider, so penalties would not apply.

The Data Retention Regulations 2009 dictate that service providers retain details of user internet access, email and internet telephony for 12 months. Internet Service Providers must also put facilities in place to enable them to respond to access requests by Police and authorities. This only applies to the big ISPs however which the government has agreed to assist financially to put these measure in place.

ZDNet UK said that:-

According to legal advice sent to The Cloud by the law firm Faegre & Benson on 17 August, "Wi-Fi hotspots in public and enterprise environments providing access to the internet to members of the public, free or paid, are public communications services".

Edwards pointed out that, even if the sanctions proposed in the Digital Economy Bill come into force,

"No-one will know who [the downloader] was, because the IP address that will show up [upon investigation] will be of the hotspot". She added that the rights holder seeking infringers of their copyright would probably not know that the IP address in question was not that of a subscriber.

It would then be up to the hotspot operator to point out that they were not the end user downloading copyrighted material. "But when would they get to say that? Maybe straightaway, maybe not until after disconnection — it's not currently clear," Edwards said.

The case is already being seen as the thin end of a legal wedge that the Digital Economy bill might drive deeper into the business models being operated by companies offering web connectivity.

If all that hasn't confused any pubs wishing to provide free internet access to punters, we don't know what will.

For free and impartial advice and help securing your wireless network, contact the Business Crime Reduction Centre on 01142751283 or email info@bcrc-uk.org

To see the draft Digital Economy Bill, go to
<http://www.publications.parliament.uk/pa/ld200910/ldbills/001/10001.i-ii.html>